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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission resolution 1998/61

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Abbreviations

AFDL Alliance of Democratic Forces for the Liberation of Congo-Zaire

ANR National Information Agency (Agence nationale de renseignements)

APR Rwandan Patriotic Army

AZADHO Association zaïroise pour la défense des droits de l'homme now

ASADHO Association africaine pour la défense des droits de l'homme

CADDHOM Collectif d'Action pour le Développement des Droits de l'Homme

CDH Human Rights and Humanitarian Law Committee

CNONGD Conseil National des Organisations Non-Gouvernementales de Développement

CRONGD Conseil Régional des Organisations Non-Gouvernementales de Développement

CNS National Sovereign Conference

COM Military Court (Cour de l'ordre militaire)

CPRK Kinshasa Prison and Rehabilitation Centre

DEMIAP Detection of Unpatriotic Activities Police

FAC Congolese Armed Forces

FAR Rwandan Armed Forces

FONUS Forces Novatrices pour l'Union et la Solidarité

ICRC International Committee of the Red Cross

MPR People's Movement for the Revolution

MSF Médecins sans frontières

NGO Non-governmental organization(s)

PALU Unified Lumumbist Party

PIR Rapid Intervention Police

RCD Rassemblement congolais pour la démocratie

RTNC Congolese National Radio and Television Corporation

UDPS Union for Democracy and Social Progress

UNHCR Office of the United Nations High Commissioner for Refugees

UNICEF United Nations Children's Fund

VSV Voix des Sans Voix pour les Droits de l'Homme

WFP World Food Programme

Introduction

A. Mandate and activities of the Special Rapporteur

1. Commission on Human Rights resolution 1994/87 made provision for the appointment of a Special Rapporteur to report on the situation of human rights in Zaire, now the Democratic Republic of the Congo. His mandate was renewed by resolutions 1995/69, 1996/77, 1997/58 and 1998/61, after the Commission had considered his reports E/CN.4/1995/67, E/CN.4/1996/66, E/CN.4/1997/6 and Add.1 and 2 and E/CN.4/1998/65. The last two resolutions also requested him to submit an interim report to the General Assembly (A/52/496 and A/53/365). In its resolution 53/160, the General Assembly took note of the preliminary report and requested the Special Rapporteur to present a further report at its fifty-fourth session. This report comprises information received up to 31 December 1998.

2. The Special Rapporteur held three rounds of consultations in Geneva (18 to 22 May 1998, 10 to 14 August 1998 and 23 and 24 November 1998), two in Brussels (13 and 14 July 1998 and 19 to 23 October 1998) and one in Paris (15 to 17 July 1998). He interviewed many direct victims, relatives of victims, exiles, priests, ministers, religious leaders, journalists and lawyers. He also had contacts with leaders of non-governmental organizations and members of political parties (see annex I). He issued three press releases concerning serious emergency situations. He heard other testimonies in the course of private visits to London, New York and Grenoble.

B. The Special Rapporteur and the authorities of the Democratic Republic of the Congo

3. The authorities who took over the Government on 17 May 1997 have refused to cooperate with the Special Rapporteur of the Commission on Human Rights, the joint mission established pursuant to Commission resolution 1997/58 and the Investigative Team of the United Nations Secretary-General set up on 15 July 1997. On 4 May 1998, the Special Rapporteur requested the Government of the Democratic Republic of the Congo to allow him to visit the country in August, in order to hear at first hand the Government's version of events. He never received a reply.

4. The Special Rapporteur sought the cooperation of the Government by submitting to it all the cases cited in his report (88 communications and urgent actions, including 419 cases involving approximately 4,000 people). No reply was ever received. This attitude, which is typical of Governments that are the subject of investigation by the Commission on Human Rights, in no way detracts from the validity of the report, either from a legal point of view, or where the seriousness, objectivity and truth of its contents are concerned, as the Commission and the General Assembly have always recognized.

5. During the General Assembly's fifty-third session, the Special Rapporteur had a fruitful interview with the Ambassador of the Democratic Republic of the Congo to the United Nations and his assistants. The Government's hard response to the preliminary report did not close the door on future cooperation. It came as no surprise, therefore, that the Minister for Human Rights, She Okitundu, during the celebrations for the fiftieth anniversary of the Universal Declaration of Human Rights, agreed to a visit by the Special Rapporteur, a question which is discussed at the end of this report. / Note by the Secretariat of the Office of the High Commissioner for Human Rights: On 11 January 1999, the Government of the Democratic Republic of the Congo wrote to the Special Rapporteur inviting him to visit the country from 16 to 23 February 1999./

C. Joint mission of the Commission on Human Rights

6. Commission on Human Rights resolution 1998/61 did not renew the mandate of the joint mission established by Commission resolution 1997/58 to investigate violations of the right to life committed in eastern Zaire / The terms "Zaire" and "Republic of Zaire" are used to refer to the Government which ruled the country until 17 May 1997, and "Democratic Republic of the Congo" for the Government which took over on that day./ since 1 September 1996 during the so-called "war of liberation". The Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) and the Governments of the Democratic Republic of the Congo and Rwanda always denied the facts alleged and never cooperated with the joint mission.

D. Secretary-General's Investigative Team

7. On 17 April 1998, the Secretary-General withdrew the Investigative Team, which he had established in July 1997 to investigate complaints of atrocities in the eastern part of the country, because of the "total lack of cooperation" on the part of the Congolese authorities, who "had harassed and intimidated witnesses who had testified before the investigators". It was "a source of deep regret that, between its first deployment in August 1997 and its withdrawal in April 1998, the Team was not allowed to carry out its mission fully and without hindrance". The Office of the High Commissioner for Human Rights considered this a serious setback in the battle against impunity.

8. The Team submitted its report (S/1998/581, 29 June 1998) on 30 June 1998, giving a detailed account of the obstacles created by the authorities and confirming the existence of human rights violations committed by the Zairian Army; killings committed during the inter-ethnic violence beginning in 1993; killings in refugee camps by the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL); other violations of international humanitarian law by the AFDL; killings committed by Interahamwe and Mai-Mai militias since 1996; and crimes against humanity attributed to AFDL and its allies. These conclusions are basically the same as those of the reports of the Special Rapporteur (E/CN.4/1997/6/Add.2) and the joint mission of the Commission on Human Rights (A/51/942 and E/CN.4/1998/64).

9. The Government's claim in its reply dated 26 June 1998 (S/1998/582, 29 June 1998) that the report is "an exact copy of the Garretón report, which it plagiarized" (para. 10), is not credible. It accuses the Special Rapporteur of "lack of objectivity"; of waging a "campaign" against the Democratic Republic of the Congo; of exceeding his mandate, etc. At times, the alleged "plagiarism" would seem to refer to the Special Rapporteur's preliminary report (E/CN.4/1997/6/Add.2) (see paragraphs 15 to 25 of the Government's reply), which should be considered as a serious accusation against the Secretary-General's Team, since it is hard to imagine that a report prepared after 10 months of work with high-level technical and human support would be plagiarized from a report that is clearly identified as "preliminary" following a five-day visit to the region. The report of the Investigative Team (S/1998/581) covers events occurring well after the supposedly plagiarized report, as well as material not included in the latter (destruction of evidence, the events at Shanje, Shabunda, Tingi-Tingi, Kisangani, Province of Equateur and many others).

10. The reply insinuates that the "plagiarism" occurred in relation to the Special Rapporteur's report dated 30 January 1998 (E/CN.4/1998/65) (see paragraphs 23, 27, 28 and 30 of the reply, whose chapter I is entitled: "The Garretón report: principal source of the report of the Investigative Team"). This is impossible, however, since paragraph 1 of the Special Rapporteur's report analyses human rights violations "throughout the country, not including violations of human rights and international humanitarian law dealt with by the joint mission".

11. The Security Council took no decisions after receiving the report, although its President issued a "statement", in which he requested the Governments of the Democratic Republic of the Congo and Rwanda to investigate the allegations contained in the report and inform the Council by 15 October 1998.

12. In his report to the General Assembly (A/53/365 of 10 September 1998, the Special Rapporteur considered it very unlikely that any such investigation would ever be carried out, since, as far as the Government was concerned (S/1998/582), the allegations were false (para. 2); the Secretary-General's report seeks "to camouflage the responsibilities of the Powers implicated in the genocide in Rwanda"; it is "not based on concrete facts" (para. 10); it is "a collection of unfounded allegations" (para. 11); "it is clear that these alleged violations of human rights and humanitarian law are completely unfounded" (para. 131). In the event, the Special Rapporteur was right, since both Governments admitted that they had not investigated. Unless prevented by war, the Government of the Democratic Republic of the Congo undertook to report by 15 January 1999.

13. On 2 September 1998, during the meeting of Heads of State of the non-aligned countries, President Kabila recognized that Rwandan and Ugandan troops had committed massacres against Bahutu refugees. A few days later, Minister Pierre Victor Mpoyo added that the Government would accept United Nations investigations

(Libération, 17 September 1998). Lastly, the Minister for Foreign Affairs, Jean Charles Okoto Lolakombe, stated before the General Assembly that the crimes that were still being committed by the Rwandan forces would tend to confirm those facts.

E. International obligations of the Democratic Republic of the Congo and cooperation with mechanisms of the Commission on Human Rights

14. The Democratic Republic of the Congo is a party to the instruments listed in annex II, but has not become a party to any new convention since the change of Government. The Special Rapporteur welcomed the announcement made on 10 December by the Minister of Human Rights that his country would sign Protocol II Additional to the 1949 Geneva Conventions, as well as other instruments; this would demonstrate a commitment to human rights.

15. In 1999, the Government was not required to submit reports to treaty monitoring bodies, maintaining unchanged the overdue status indicated in document E/CN.4/1998/65, paragraphs 12 to 15. The Government did not cooperate either with other rapporteurs and working groups of the Commission on Human Rights that submitted urgent cases to it for action.

I. HUMAN RIGHTS AND DEMOCRACY

16. The Special Rapporteur once again refers to what he considers the "human right to democracy", set forth in the provisions of paragraphs 2 (b) (iii) and 3 (a) and (b) of Commission on Human Rights resolution 1998/61.

17. The President continues to exercise full executive and legislative powers, including the power to dismiss judges (E/CN.4/1998/65, paras. 32 to 37); all political parties are still banned and, since May 1997, a "legal state of war" has been in effect. The armed forces are totally under his control, following the expulsion of the Rwandans, and are headed by his son.

18. In March 1998, the Drafting Committee presented the draft Constitution, for submission to a Constituent Assembly. Decree-Law No. 74 of 25 May 1998 established a future "Constituent and Legislative Assembly" (Assemblée constituante et législative) of 300 deputies. Any Congolese who was not a key figure in the Mobutu regime was eligible and some 20,000 registered candidates were competing. It was not clear how or when they would be appointed, or by whom, except for 40 who were members of the Drafting Committee. The President reserved the right to abolish those posts and resume the legislative function. The Assembly was supposed to have been inaugurated on 15 August 1998, but the event was prevented by the war. The referendum to approve the Constitution was to have been held "eventually", but, ultimately, it appears that it will never take place. / On that same day, 25 May 1998, a list was published with the names of 251 persons who were not eligible for the Assembly because they had held high positions under Mobutu. They included Tshisekedi, Bishop Monsengwo and Gisenga. The list was disclaimed by the Government./

19. After the failure of the Constituent and Legislative Assembly, Decree-Law No. 123 of 21 September 1998 set up a Committee on the Reform of the Draft Constitution, responsible in addition for proposing - decisions being taken only by the President - legislation governing elections, political parties and non-profit-making associations. The Committee, 10 of whose 12 members are officials or government advisers and 2 are close to government circles, submitted the constitutional amendments on 21 October 1998.

20. President Kabila allowed a period of 15 days for comments, prior to adoption. Comments, however, were restricted to the governors of regions and some private sectors in Kinshasa. This lack of debate drew criticism from the eminent Minister of Health, Dr. Sondji, as a result of which he was arrested and later placed under house arrest. Neither the Drafting Committee of the draft Constitution nor the Constituent and Legislative Assembly or the Reform Committee achieved any credibility and in practice the President retains his very broad-ranging powers, as confirmed in the last draft (arts. 267 and 271).

21. The final 272-article text establishes a strengthened parliamentary system, in which the President appoints and dismisses the Prime Minister (art. 89), with a two-chamber parliament. The State is basically unitary, although the provinces have significant powers, which allow them to elect their own governors and provincial assemblies. The political parties bear the mark of mistrust (they may not join any international organizations); English is introduced as a national language, although unknown to non-Tutsi ethnic groups; the problem of the nationality of the Banyamulenge and relocated peoples remains unresolved; and the Supreme Council of Justice is replaced by a Haute Autorité Judiciaire, headed by the President of the Republic. The Constitution is difficult to reform (requiring a two-thirds majority in each chamber and, on some issues, approval by referendum in

addition) and provides for states of emergency with a considerable margin for arbitrariness (arts. 60 and 61).

22. The draft, which does not include the agreements of the 1991-1992 National Sovereign Conference and is not the outcome of national debate, caused enormous disappointment. It is by no means certain that it will be approved by a referendum, if one is held.

23. Since no progress had been made prior to the rebellion in the preparation of elections, the announcement that they will be held next April appears unrealistic. The suspension of all political parties (except AFDL) is a bad sign. The democratic opposition that fought against Mobutu - which Kabila considers "immature" - is left with no space to act whatsoever. Any violation of the ban on political parties is an offence that must be tried by the Military Court (statements of 16 January and 24 September 1998). A census which was to have been prepared in December and carried out in January will not be taking place.

24. After some temporary relief of the political repression, on the night of 14 December 1998, 29 Unified Lumumbist Party (PALU) leaders were arrested and taken to Kokolo jail; on 19 December, Joseph Kimbeni of the Union for Democracy and Social Progress (UDPS) was arrested.

II. THE ARMED CONFLICT IN THE EAST

A. Background

25. The war which had been raging since 1993 in North Kivu between indigenous and Rwandan ethnic groups gained in intensity with the arrival of more than 1,200,000 Hutu refugees (including some responsible for the genocide), who had lost the war in their country in 1994 (documents E/CN.4/1995/67, paras. 85 to 95; E/CN.4/1996/66, paras. 23 to 32; E/CN.4/1997/6, paras. 164 to 169; E/CN.4/1997/6/Add.1; E/CN.4/1998/65, paras. 74 to 85). In South Kivu, the denial of their Zairian nationality caused the Banyamulenge (Tutsis of Rwandan origin who had been living in what is now the Democratic Republic of the Congo for generations) to mobilize in order to defend their rights at any cost (documents E/CN.4/1995/67, paras. 87 to 89; E/CN.4/1996/66, paras. 33 to 37 and 84 and 85; E/CN.4/1997/6, paras. 111 to 138 and 223; E/CN.4/1997/6/Add.1, paras. 26 to 29; paras. 98 to 102 and 126 (c)). These two conflicts aggravated the historical anti-Rwandan feeling described in all the reports since 1995.

26. The war of liberation is related to the following background factors: Rwanda sees its security threatened on its eastern border by the presence there of Hutu refugees; and it wants the rights of its Congolese Tutsi brothers, who were so useful in the 1994 war, recognized. On the other hand, the Zairian people, stifled by the Mobutu dictatorship, needed to free itself from the dictator. When these two forces came together, they produced the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) (E/CN.4/1997/6, paras. 184 et seq.; E/CN.4/1998/65, paras. 49 to 51).

27. The "liberation" was really two wars in one: for one of the allies, the Rwandans (including the Banyamulenge), the enemy were the Hutu refugees, who were all considered to be guilty of genocide. For Kabila and his men, the enemy was Mobutu and his dictatorship (including his mercenaries).

28. The AFDL quickly won the war (1 September 1996 to 17 May 1997) and set up a strong regime, with Laurent Desiré Kabila as President. The over-weighting of Tutsi in the Government caused considerable unease in the population, which had welcomed victory as a liberation. This discontent was aggravated by the paralysis of democratization and contempt for the historic opposition. The Rwandan presence in the east was especially resented, since it was perceived as a real form of foreign occupation.

29. The historic problems of the east (ownership of the land and access to power) were aggravated. In 1998, there were serious clashes, attacks and burning of property resulting in numerous deaths, injuries and displaced persons in North Kivu: Mera, Limangi, Kibumba (8 January), Lubango (1 May), Goma (16 and 17 May). AFDL forces pursued anyone suspected of helping the Mai-Mai and one of the Alliance leaders, "Commander 'Strongman' Kagame", undertook to exterminate the suspects. / The suspects are former guerrilla fighters of the time of Pierre Mulele, a companion of Patrice Lumumba. They have no ideology; they sided with the Interahamwe against the invaders, but, when Kabila appointed Banande and Banianga to representative posts, they chose him over Mobutu. Later, however, they fought AFDL, which they identified with the Rwandan Batutsi. Since the rebellion, they have been connected with the FAC. In September, they attacked the rebel headquarters, and that attracted public sympathy./ In order to facilitate the settlement of Tutsis, population records were burnt. In South Kivu, the main events occurred in Bukavu on 18 February 1988, when massive

searches were conducted for Mai-Mai militia men. Butembo was taken by the Mai-Mai and recaptured later by AFDL using unprecedented violence that resulted in the deaths of at least 300 people (20 and 21 February). The Congolese Armed Forces (FAC) moved whole communities (Kibumba, Rugari, Byahi, Tyazo) as a means of facilitating military manoeuvres, as recognized by the Provincial Security Council of North Kivu.

30. There were three parties to the conflict: (a) Tutsi, Banyamulenge, FAC and Rwandan Patriotic Army (APR), moving back and forth between the Democratic Republic of the Congo and neighbouring countries, supported by the Kinshasa Government; (b) Mai-Mai, remaining Interahamwe and former members of the Rwandan Armed Forces (FAR); and (c) the civilian population, the main victim, which was becoming increasingly sympathetic to the Mai-Mai, although all it really wanted was peace. The Government considered that it was simply dealing with an insurrection staged by France through its Ambassador in Burundi and its consul in Bukavu, the Vatican, Caritas, the International Committee of the Red Cross (ICRC), the Office of the United Nations High Commissioner for Refugees (UNHCR) and exiled Mobutu supporters and it supported those seen by the population as the aggressors.

31. Many traditional chiefs (mwami) were replaced by Tutsi (in the communities of Tombo, Bambu, Bakumu, Kibasi, Bukombo, Butalonga and Kibumba) and often arrested, accused of cooperating with the Mai-Mai (in January 1998, several mwami were arrested, including Désiré Kabare Rugemaninzi (Kabare district), Pierre Ndatabaye Weza III (Ngweshe, Walungu), Masu Ga Rugamika, Babunga Augustin and Ruhigita Bulangalire Majagira, some of whom were taken to Kinshasa and later released).

32. President Kabila found it increasingly difficult to remain loyal to his former allies, who themselves were dissatisfied, since anti-Ugandan rebels and the anti-Rwandan Interahamwe were still operating in the country and the problem of the nationality of the Banyamulenge still remained unsolved.

33. The first real sign of the future turn of events was the "Banyamulenge mutiny" of February 1998, when Banyamulenge soldiers defied President Kabila's orders to lay down their arms and took refuge in Remera and Itombwe, refusing to be transferred to other military regions. The Vice-Governor of South Kivu, a Muyamulenge, was caught with arms taken from the Bukavu Regiment, while the former Chief of Staff of the FAC, the Rwandan James Kabere, was reinstated on 4 March 1998. This incident reinforced the Rwandan determination to thwart the investigations of the Secretary-General's Team, which was scheduled to arrive in the region, forcing Kabila not to hold the referendum on a new Constitution that would not grant the Banyamulenge Congolese nationality. On 24 February, the Banyamulenge leader, Ruhimbika Muller, declared that Kabila was worse than Mobutu and that the war of liberation was over and occupation was beginning. Muller was arrested and sentenced to death by the Military Court on 26 April, but was freed by his supporters and escaped.

34. In July 1998, while Kabila was trying to get rid of the Rwandans, the latter took back positions, bringing Tutsi soldiers to Kinshasa, a move which, when the conflict broke out, spread panic among the Katangan soldiers.

B. Developments

35. On 27 July 1998, the President ordered the withdrawal of foreign troops, thanking them for their support in the AFDL victory. Some Rwandans had left the Government and others were abroad. James Kabare had been sent back to Rwanda and replaced by a Katangan soldier and then by the President's own son. Only a few hundred Rwandan soldiers returned to their country as an initial reaction of rebellion.

36. On 2 August, there was an uprising of Banyamulenge and Rwandan soldiers in Kinshasa (Kokolo and Tcahtchi); they announced that the FAC would depose Kabila on the grounds of corruption, nepotism and dictatorial bearing. The uprising resulted in numerous deaths and injuries. On 4 August, in a plane leaving from Goma, the rebels moved Rwandan troops to the west, particularly to Kitona and Muanda, in order to attack Kinshasa from two sides. They captured several towns and the power stations supplying the capital, but were finally dislodged by government forces, with the support of Angolan troops.

37. By the close of this report (31 December 1998), the rebellion had taken over about a third of the country, although in the occupied zone there is still active resistance (Masisi, Rutshuru, attack on Goma on 14 September, retaking of Fizi, Businga, Moba, etc.).

38. In political terms, the rebels established the Congolese Movement for Democracy; the leader was the former political prisoner Arthur Z'Ahidi Ngoma, but the members were overwhelmingly Tutsi. It later became the Rassemblement Congolais pour la Démocratie (RCD). Within the party there were differences between Rwandan

nationals, who favoured getting rid of Kabila and recovering their lost power, and democratic factions, which favoured reconciliation among the Congolese people. Z'Ahidi was later replaced by Ernest Wamba dia Wamba. / President of the Forces du Future party, arrested in 1997, tortured, sentenced by the Military Court and released on 24 May. The Special Rapporteur interviewed him in Paris on 16 July 1998, at which time he expressed his intention to oppose "the Kabila dictatorship by peaceful means"./

39. Until November 1998, Rwanda and Uganda, despite the evidence, denied taking part in the conflict. Finally, the President of Rwanda justified participation on the grounds of an issue which is very sensitive in Africa, namely, his support for a conference to amend the 1885 Berlin Agreements on the borders of the European colonies ("Berlin II").

40. Towards the end of August, at Kabila's request, the armed forces of Zimbabwe, Angola, Chad and Sudan intervened in support of his regime, so that, with the open participation of Rwanda and Uganda on the rebel side, at least some seven countries ended up involved in the conflict.

41. Notwithstanding this internationalization of the conflict, in the Special Rapporteur's view, it remains an internal armed conflict, subject to article 3 common to the four 1949 Geneva Conventions. The rebel side, including their Rwandan and Ugandan backers, have stated that their goal is to replace President Kabila, while the foreign forces that support him do so because they consider him to be the legitimate President of the Democratic Republic of the Congo.

42. Other groups taking part in the conflict include former Mobutu leaders, such as Charles Nsimba and Anzuluni Bembe (E/CN.4/1998/65, para. 86), and the new Mouvement pour la libération du Congo de l'Equateur (which occupied Bumba and Aketi), although these have no support in the conflict and are not affecting the outcome.

III. VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

43. The Special Rapporteur's mandate authorizes him to take into consideration violations of international humanitarian law, in view of their close and complementary relationship with human rights law, both being intended to protect persons. He adopted this approach in his report on the 1986-1997 conflict (E/CN.4/1996/66, paras. 190 to 207). The same rules form the basis of the reports of the joint mission (A/51/942 and E/CN.4/1998/64) and the Investigative Team (S/1998/581).

44. The normative framework rests basically on article 3 common to the four Geneva Conventions of 12 August 1949. The remainder of the Conventions, as well as Additional Protocol II, add to the interpretation, as well as certain precepts which may be considered part of customary international humanitarian law, such as the prohibition of sexual violence against women (art. 27 of Convention IV); the prohibition of attacks on the civilian population (art. 13 of Protocol II); and the protection of objects indispensable to the survival of the civilian population (art. 14 of Protocol II).

A. Violations attributable to the government forces and their allies

45. The Government's response to the rebellion was violent. Particularly serious was its incitement to hatred of the Tutsi (who were referred to as "viruses, mosquitoes, garbage" that should be eliminated), which prompted the civilian population to become involved in the conflict, placing it at serious risk of becoming a military target. There was a real policy of ethnic cleansing: "We have cleansed Kinshasa", said an official of the National Information Agency (ANR). This constitutes "an adverse distinction founded on race", contrary to article 3 (I) of the Conventions.

46. Then there was a positive reaction. On 12 August 1998, an Interministerial Committee was set up to deal with the effects of war, ensuring the protection of prisoners of war and those accused of treason for supporting the rebels. Before the fall of Kisangani, the Congolese authorities protected rebel sympathizers, but, after 23 August, following rebel attacks on the civilian population (in the course of which they destroyed and looted churches, such as St. Joseph in Tshopo and Christ the King in Mangobo), the population reacted with indignation and violence.

Violence to life and person (art. 3 (I) (a))

47. The Congolese Armed Forces (FAC) carried out many summary executions against the Tutsi or anyone

suspected of being so, mainly on ethnic grounds (see annex III).

Arbitrary passing of sentences and carrying out of executions (art. 3 (I) (d))

48. Both civilians and soldiers suspected of being rebel recruits were considered "traitors", tried by the Military Court (COM) and executed: 38 in October and 13 in mid-November, in the course of trials with no guarantees whatever (see para. 91).

Attacks on civilian populations

49. Government forces and their Angolan and Zimbabwean allies indiscriminately shelled civilian populations in Kimbaseke, Masina, Boma, Moanda, Ndjili and Mikonga (Kinshasa), killing hundreds of people. On 5 September 1998, the FAC attacked Lutala, in Maniema, the birth place of Arthur Z'Ahidi Ngoma, as a reprisal for leading the rebellion.

Arbitrary detentions

50. Since the outbreak of the conflict, many persons of Tutsi origin, Banyamulenge and suspected rebel sympathizers have been detained without being charged or tried (the Minister of Human Rights confirmed 800 detentions in the early days, while it is reckoned that, by November, the number had risen to 1,855), both in Kinshasa (in Kokolo military camp and in DEMIAP (Detection of Unpatriotic Activities Police) and ANR premises) and in the regions (in different places). Since 21 August 1998, the ICRC has had access to the prisoners. In some cases, women and children or journalists accused of supporting the rebels (such as Claude Kamanga Mutond, of Associated Press) were also detained.

51. A number of Tutsi, including persons of "Tutsi morphology", were taken to detention centres, especially to Kokolo camp in Kinshasa (some 150), to the Convent of Backita, or to ANR premises in Likasi, Kipucshi and the Kolwezi Gecamine Guest Hotel (about 500 people, half of them women and children). Some were released. According to the Government, these persons are not in detention, but are being protected from reprisals by the Congolese population, though it recognizes that their living conditions are abominable. Relatives whom the Special Rapporteur interviewed said that many of the detainees were prepared to run the risk of being released. International efforts to host them have been minimal.

Sexual violence (art. 3 (I) and 3 (I)(c))

52. The Special Rapporteur received testimony that sexual assaults on Tutsi women were being used as a method of warfare.

Recruitment of children

53. All reports indicate that children are being recruited for war activities, just as they were in the 1996 conflict. On 7 August 1998, the Government put out a radio call to all young people between the ages of 12 and 20 to enlist, in flagrant violation of article 38 of the Convention on the Rights of the Child. On 20 August, the deputy Minister of the Interior thanked the 20,000 young people of Kinshasa enlisted in the FAC and the police. In Kisangani, the FAC withdrew orphans from the orphanage to send them to the front.

B. Violations attributable to the rebel forces and their allies

54. It is not easy to discover the facts owing to the dictatorship imposed by the rebels in the occupied zones. Humanitarian organizations have difficulty operating - although there has been some improvement in Goma and a few other towns - and there is no freedom of expression or freedom of the press. Only occasionally a clandestine radio station is able to broadcast. Power is held by the Rwandans, who are rejected by a population that feels humiliated and by some officials put in place by AFDL prior to the conflict. Political parties are banned, except the RCD (Rassemblement Congolais pour la Démocratie). A more careful investigation is therefore needed.

55. The victims of violations of article 3 of the Conventions have been the democratic sectors opposed to the rebellion, non-combatant Mai-Mai, indigenous chiefs and social organizations, and Katangan soldiers of the Congolese Armed Forces (FAC). The victims are mostly young people, or children, who object to enlisting in the rebel forces. Like in the 1996 conflict, the victims' bodies are thrown into the Ruzizi river.

Violence to life and summary executions

56. According to NGOS in South Kivu, some 120 people died each day in the first 15 days of September in the two Kivu regions. The most serious violations of the Geneva Conventions were the massacres at Kasika on 24 August 1998 (648 victims) and Makobola on 31 December (about 500 killed), the second incident being a consequence of the impunity that followed the first. Other cases are reported in annex IV.

57. Some facts indicate that the casualty figure could be very high: it was reported that a mass grave with 630 bodies of persons captured by rebels in Uvira, Kiliba and Sake had been discovered in Kasenga, South Kivu. In addition, some 150 civilians were killed by rebels on 6 September in Kirunga, apparently in retaliation for a Mai-Mai attack. Similar cases were reported from Kalemie, after the fall of the town. There were accounts of barbarous acts, such as the dismemberment with knives of the bodies of non-combatant dead (16 traders, 1 paramedic, 1 money changer, railway workers, etc.). Between 4 and 5 December, the remains were discovered of three and two individuals killed with knives in Mabingu; in Buhama, near Lemera, six bodies were also found cut to pieces, with the hands tied. These were all civilian casualties.

Arbitrary detentions and deportations (art. 3 (I)(a))

58. Persons suspected of being close to Kabila have been arbitrarily deprived of liberty and some have been deported to Rwanda. This is extremely serious, since nothing is known of what happens to them in that country. Cases reported to the Special Rapporteur included the following: between 2 and 8 August 1998, some 356 Katangese detained between Uvira, Bukavu and Goma; on 14 September about 30 traditional chiefs detained; 4 persons detained in December (Babunga, Agustin; Chubaka, Bugugu and Mrs. Muke, in retaliation for not finding her husband). Fears were expressed that some of the victims have been cremated (in Bugesera or in Gabiro) in order to leave no traces.

Torture (article 3 (I))

59. Various reports mention torture of prisoners by the rebels. There are premises where torture is practised brutally and often.

Sexual violence

60. The rebels have also raped women belonging to indigenous ethnic groups, as acts of war (see annex XIII.(D.). Similar events occurred in Bukavu (24 August); in Essence (Kibonge) and Kadutu; in Mwenga, Walungu and on the Island of Idjwi.

Obstruction of humanitarian assistance

61. Continuing with a practice denounced by the Special Rapporteur, the joint mission of the Commission on Human Rights and the Investigative Team in their reports on the 1996-1997 war, the rebel forces, with foreign support, prevented the delivery of humanitarian assistance in Bukavu, Uvira and other places. Vehicles of United Nations agencies were confiscated and plundered (800 tonnes of goods were taken from WPF and objects valued at US$ 800,000 from UNICEF), as were those of non-governmental organizations, and their staff members were threatened. On 9 August, several humanitarian agencies (UNHCR, UNICEF, WHO and MSF) were expelled from the east by the rebels, although some have gone back and some of the objects have been returned.

Protection of objects indispensable to the survival of the civilian population (art. 14 of Protocol II)

62. Article 14 of Protocol II is to be seen in connection with the obligation in article 3 of the 1949 Conventions whereby "persons taking no active part in the hostilities ... shall in all circumstances be treated humanely". When they seized the Inga power station, the rebels left Kinshasa without electricity (13 and 14 August 1998), producing a disastrous situation in the hospitals (about 10 persons died in the General Hospital, formerly Mama Yemo) and hindering supplies to the population. The act was condemned by UNHCR and by the Deputy Secretary-General for Humanitarian Affairs.

Forced recruitment of civilians, including children

63. Public officials in the areas occupied by the rebellion are forced to join it against their will. There have been complaints, as there were in the so-called war of "liberation", that 15-year-old children were being recruited,

including some who were being assisted by UNICEF, but some witnesses told the Special Rapporteur that they had seen 10-year-old children wearing uniforms and carrying military weapons.

IV. REFUGEES AND DISPLACED PERSONS

64. The refugee camps in the east continue to be closed by order first of the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL) and, secondly, the Rassemblement Congolais pour la Démocratie (RCD). UNHCR is unable to work even with the Tutsi returning from Rwanda. On 19 February 1998, the High Commissioner was promised that the refugee problems would be solved, but nothing was done. None of the projects for the peaceful return of the 1994 refugees to Rwanda had the backing of the Governments concerned. UNHCR has warned that it cannot assist some 12,000 Hutu Burundian refugees in Uvira, who are in great danger.

65. It is alleged that there are still some 170,000 Rwandan refugees in hiding in North and South Kivu, who come out only to obtain medicines and food or to attend church. They are protected by the Congolese population, but are being pursued by the "English-speaking soldiers".

66. The AFDL Government violated the prohibition of refoulement: it expelled some 200 Burundian refugees and about 140 Rwandans to their countries of persecution. On 11 May, 60 refugees from Congo-Brazzaville, including Bonaventure Boukaka Oudiasantu, were expelled on the grounds that they belonged to Bernard Kolelas' militia. There are believed to be some 10,000 refugees from the Republic of the Congo.

67. The war paralysed efforts by UNHCR to repatriate Congolese refugees from Tanzania.

A. Internally displaced persons fleeing from the conflict

68. The conflict has caused many displacements: some 3,000 Katangans fled from Kalemie to Nyunzu; another 4,000 to Nyembe; and some 300 to Moba. About 800 fled from Kabalo to Katanga. It is reckoned that over 20,000 persons have fled the rebel occupation since the beginning of the war to the area of Katanga, to whom should be added those fleeing from Kinshasa after the terrible power cut imposed by the rebels and later the bombardments by the Congolese Armed Forces (FAC) and their foreign allies (some 280 families).

B. Forced displacements

69. In flagrant violation of the humanitarian principles embodied in article 17 of Protocol II to the Geneva Conventions, the rebels have displaced many Tutsi, including from Burundi, to Kalemie, then on to Uvira (South Kivu) or Masisi (North Kivu) as part of a policy aimed at populating Kivu with Tutsi and altering the population balance.

V. HUMAN RIGHTS SITUATION: VIOLATIONS ATTRIBUTABLE TO THE GOVERNMENT FORCES AND THEIR ALLIES

70. The events mentioned below are not connected with the rebellion of August 1998 either because they occurred previously or because they bear no relation.

A. Right to life

Death penalty

71. The Military Court has continued, after conducting irregular trials, to impose the death penalty with chilling frequency (see para. 48). The Presiding Officer of the Court, Munkoto Kiyana, in his announcement on 26 January 1998 of 21 public executions for armed robbery, said that it would serve as a solemn warning to all criminals. According to a highly reliable report, 56 persons were executed in the first three months of the year and the death penalty has continued to be imposed up to the close of this report. A 13-year-old boy was condemned to death, although his sentence was later commuted to life imprisonment (annex V.A.).

72. The Minister of Justice announced that anyone sabotaging the new Congolese franc or the economy would be

tried by the military courts and sentenced to death (19 July and 31 October 1998).

Enforced disappearances

73. The Special Rapporteur received many complaints of enforced disappearances, but the complete lack of Government cooperation has prevented him from gathering confirming details (annex V.F.). The whereabouts of Professor Aloïs Kayihura and his family and the 33 Rwandan refugees who were abducted in December 1997 (E/CN.4/1998/65, para. 129) remains unknown.

Arbitrary deprivation of life through abuse of power shielded by impunity

74. Abuse of power by members of the army has created many victims, bringing to mind the violence of the Mobutu era. Applying the death penalty regularly is not a solution to impunity in such cases (annex V.B.).

Death by torture

75. There have been cases in which torture has led to the death of victims (one female prisoner died of starvation; her 123 companions survived, but were later expelled to Angola). On 25 June 1998, in Kisenso, a detainee died in the police station as a result of torture.

B. Right to physical and psychological integrity

Torture

76. The Special Rapporteur received direct testimony concerning torture. Professor Ngoma, later the leader of the rebellion, said that he had received 51 lashes on being detained in 1997, "one for each year of age", while another released prisoner reported that, while he himself had not been tortured, "most of the prisoners within the DEMIAP compound" had been; he described that institution as a "no-law zone". Many NGOS, such as the Centre for Human Rights and International Humanitarian Law of Lubumbashi, as well as interviewed lawyers, reported serious violations of physical and psychological integrity. Detained Mai-Mai and persons accused of witchcraft are regularly beaten on the basis of accusations which are often made for the sake of revenge. Once again, rapes of women and girls in detention have been reported (annex VI).

C. Right to equality and non-discrimination

77. Discrimination on racial or regional grounds has worsened. Just as during the Mobutu dictatorship belonging to the same ethnic group as the President or coming from Equateur Province were sources of privilege, at present being Katangan facilitates access to power, while an Equateur origin becomes a source of suspicion and discrimination. Under the headings of other rights in this report and its annexes, cases are mentioned in which arrests, threats and other attacks are either racially or regionally motivated. The Special Rapporteur had already warned of this tendency in his 1997 report (E/CN.4/1998/65, paras. 51, 213, 217, 225, 228 and 232).

D. Right to security of person

78. The right to security of person has improved significantly since AFDL came to power. Nevertheless, there are signs of deterioration, especially in the Kivu provinces, where Tutsis frequently seize properties. One typical case among many occurred on 2 February 1998 in Matadi-Mayo, a commune of Mont Ngafula. Two hundred families were evicted from their homes, despite the fact that they all held legal title thereto. The homes were plundered and many girls were raped. Every day soldiers steal vehicles, money, jewellery, etc. throughout the country. "Solders robbed me of US$ 450"; they beat a money changer and robbed her of NZ 300,000,000"; "English-speaking soldiers came into my house and stole my radio, money and jewellery"; "the Rwandans kidnapped my son, brought him bleeding back to my house and demanded $1,000 thousand, but I had only $ 350, so they beat me and took the money", etc., are the sort of complaints frequently heard (annex VII).

79. The Tutsi, either real or presumed, live in conditions of particular insecurity, to such a point that the Government has had to deprive many of them of their freedom (see para. 51). Many Tutsi have had to hide or to seek asylum in embassies, although only a few countries (with the exception apparently of Belgium) ever grant asylum, on the grounds that it might be construed as participating in ethnic cleansing.

E. Right to liberty of person

80. Liberty of person has been very seriously compromised: up to 2 August 1998, journalists, foreign correspondents, political leaders, human rights defenders, anyone suspected of pro-Mobutu sympathies or of supporting the Mai-Mai or the Interahamwe or their relatives, were being arrested and held with or without trial by officials of the National Information Agency (ANR), the Detection of Unpatriotic Activities Police (DEMIAP) or the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL). Some of the leaders of the old regime, such as Bembe Salaona, have been arrested and released at will. Others remain under house arrest or their movements are restricted and they are required to report to the authorities or to stay away from certain places. Others still have bought their freedom by paying large sums of money (annex VIII). The fact that the Government is fully aware of the injustice of these arrests was demonstrated when President Kabila himself visited the opposition leader Etienne Tshisekedi at his place of enforced residence, a few days before the report of the Secretary-General's Investigative Team, for the purpose of arriving at a political agreement, which Tshisekedi did not accept.

81. Even Ministers of State are arrested for political reasons: the Minister of Information, the President's Principal Private Secretary, the President of the Congolese National Radio and Television Corporation and his assistants were all detained between May and August 1998 because a report had been broadcast showing events in the AFDL war of liberation. In November, the Minister of Health was arrested and kept under house arrest because he was calling for a constitutional debate.

F. Prison conditions

82. There are many unauthorized prisons, including on the property of high government officials. The Buluwo prison, where Ngoma, Masasu and Olengankoy were held, is not a legally authorized establishment and has been described as "the antechamber of death" because of its filth and bad food and because prisoners are permitted to leave the isolation cells only to use the toilet.

83. In Lubumbashi, prison conditions in Kassapa appear better since it has been administered by an official of a specialized NGO. Unfortunately, the number of inmates increased with the conflict from 414 to over 1,500, owing to the detention of suspected Congolese soldiers, in addition to prisoners of war, who at least are given the same treatment.

84. In the ANR and DEMIAP detention centres, even in Kinshasa, men and women are kept in the same premises, sometimes together with children (Mai-Mai detained prior to the conflict).

85. After 185 soldiers and 5 civilians tried unsuccessfully to escape from Makala prison (Kinshasa Prison and Rehabilitation Centre) (CPRK) on 19 August 1998, 26 prisoners were tortured and then killed (19 had given themselves up) in the course of a real mass summary execution carried out by the 50th FAC Brigade, an event which horrified the population and which still enjoys full impunity.

86. A woman died of starvation in CPRK and between three and five prisoners were dying there in February 1998 from diarrhoea. Until July, the International Committee of the Red Cross (ICRC) had not been able to visit any prison or police detention centre.

G. Right to enter and leave one's own country

87. Several persons were deprived of this right, which is recognized in article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights (annex IX).

H. Right to a fair trial

88. The reported serious dependence of the judiciary on President Kabila (article VI of Decree-Law No. 3/97; see document E/CN.4/1998/65, para. 162) went to such extremes that, by two simple decrees, 91 judges were dismissed on 25 April and another 315 on 7 November, without the Supreme Council of the Judiciary being consulted, on charges as vague as "doubtful morality" and negligence. Worse still, many of the dismissed judges came from Equateur or Kasai.

89. On 18 February 1998, Judge Selemani, who had been ordered to execute a sentence against the Communal President of AFDL in Kimbanseke, Songo Titi Lambert, for contempt of court, was arrested by order of the Provincial President of AFDL, Kay Kumuimba. Two other magistrates were forced to go into hiding, in another illustration of the lack of judicial independence, which is the guarantee of due process.

90. Moreover, the Military Court (COM), which was established in 1997 to try cases involving crimes committed by soldiers and police officers and armed robbery, is trying all types of cases, including those under the jurisdiction of the Court of State Security. The understanding of the COM, which has no basis in law, is that such matters come under its jurisdiction because the "state of war" in effect since 1997 has not been lifted. The COM has tried cases totally unrelated to its mandate, such as violation of the ban on political parties (Ngoma and Olengankoy); treason against the State and establishment of private militias (Masasu); visiting a political prisoner (the girls Nellie Epule Difumakoy and Viviane Bimbou Nyembo); alleged cooperation with rebels during the occupation by Rwandan troops (the former governor of Bas-Congo, Fuka Unzola, and the Director of the Province, 2 December 1998). The Special Rapporteur was told that the COM has been used to persecute persons for ethnic reasons, such as the pilot Ngama, detained for belonging to Mobutu's ethnic group.

91. The following irregularities were noted in the trial of Ngoma, Olengankoy and others (14 civilians and 11 soldiers): (a) the accused were not brought before a judge without delay (they were arrested on 28 January 1998 and appeared before a judge on 2 March); (b) their lawyers were given only three hours to prepare a defence; (c) the lawyer was not able to interview the defendant until just before the hearing; (d) the prisoners were tortured; (e) there was no equal access to evidence: much of it was illegal and could not be objected to (not endorsed by the appropriate officials); (f) under the law, there is no possibility of appealing a verdict (annex X).

92. Many persons are deprived of liberty on suspicion of belonging to or sympathizing with the rebellion, without any trial whatever

I. Right to freedom of expression and opinion

93. The Special Rapporteur reiterates that the Congolese people do not enjoy the right to freedom of information, despite the availability of newspapers in the capital. This freedom is seriously threatened: the Minister of Information and Culture on 12 January 1998 and the Attorney-General of the Republic on 22 May criticized journalists who engaged in insult, defamation and the propagation of false and malicious statements, which are not crimes of opinion. On 2 February, in Lubumbashi, it was added that "the press will be supervised".

94. Newspaper vendors are frequently detained by soldiers. Congolese newspapers may not be taken out of the country (baggage is searched). There is no pluralism whatever on State-run radio and television stations. Private radio stations have frequently been closed or suspended. War correspondents encounter enormous difficulties (annex XI). Many cases are dealt with under other rights.

J. Right to freedom of association

95. Human rights NGOs have been ransacked, threatened, suspended, banned and their leaders attacked and imprisoned. On 16 January 1998, the Minister of the Interior maintained that some people did not understand the liberation and were hindering it by creating NGOs which were really illegal political parties. He threatened that anyone who violated the ban on political parties would be tried before the military courts. He stressed that only AFDL was capable of leading the country to democracy. On 20 February 1998, the Council of Ministers accused the NGOs of supplying arms to "the rebels" (meaning the opposition, since there was no rebellion). Foreign NGOs were obliged to register again.

96. In March 1998, there were some encouraging signs: the Ministry of Justice offered to cooperate with NGOs to follow up on reports of human rights violations; a seminar was held jointly with the Office of the High Commissioner for Human Rights and a working meeting with Droits de l'Homme, Maintenant. But those signs did not last. Within a few days, the annual report of the Association Zaïroise pour la Défense des Droits de l'Homme (AZADHO), legally established since 1991, was confiscated and the organization was closed down; its leaders and those of Voix des Sans Voix pour les Droits de l'Homme (VSV) were summoned before the National Security Council; Floribert Chebeya (VSV) was attacked at his home; a press campaign was launched against those organizations and they were accused of being traitors and of being responsible for the failure of the meeting between Presidents Clinton and Kabila.

97. On 3 April 1998, the very day when, with the consensus of the Democratic Republic of the Congo, the draft Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Commission on Human Rights resolution 1998/7) was adopted, all human rights NGOs were required to register within three days. Only 22 development NGOs were authorized at the national level. Many are currently underground. The presidents of ASADO and la Grande Vision and many others have been forced to opt for exile (annex XII).

98. Matters are made worse because the Government establishes organizations which it calls "non-governmental". Decree-Law No. 071 of 18 May grants civil personality to the NGO Solidarité entre Nous to channel humanitarian assistance to the Congolese people, coordinate the activities of national NGOs, inform them about operating licences and guide them in their work. Another "NGO" of that type is the Congolese Union for the Defence of Human Rights, which is responsible for identifying "for the Government" human rights violations and cases of external manipulation.

99. Only on 4 November 1998, since the beginning of the conflict, the Government convened human rights NGOs to obtain their support for the promotion of human rights and the promotion of peace.

100. In addition, the Federation of Congolese Businesses was dissolved and the Government created the National Association of Congolese Businesses instead.

K. Economic, social and cultural rights

Health

101. There is no report of measures being taken "to the maximum amount of available resources" to ensure the right to health and the situation has worsened since 2 August 1998. Before the closing of the Capalata military camp in February 1998, there were 1,311 cases of cholera, 380 of them fatal (20 per cent, compared with a normal 1 per cent). There were 103 cases of bacillary dysentery, 16 of them fatal. In the camp, 64 per cent of the population were undernourished, 45 per cent seriously. "For no reason", according to UNICEF, its efforts to assist 3,000 children between the ages of 8 and 14 whose lives were in danger under the accusation of being Mai-Mai were hampered by the authorities. The conflict halted a campaign of vaccination against poliomyelitis, which eventually was partially carried out in December 1998. Unrelated to the conflict, in Tembo, Bandundu, 37 out of 114 people infected with meningitis died. In Kivu, 58 out of 500 people affected by a cholera epidemic died in February 1998.

Jobs

102. Civil servants have not been paid for over a year. The Government has kept inflation more or less under control, thanks to the support received from the International Monetary Fund and the World Bank; in October, however, inflation reached 81 per cent.

Education

103. Parents are still paying for what is in theory free (basic) education. Many parents complained that their children were unable to sit grade examinations because of the high fees. It is estimated that not more than 15 families in every 100 have been able to send their children to school, owing to high fees charged.

L. Situation of children

104. Even before the conflict and more so after it broke out, the Congolese Armed Forces (FAC) continued recruiting children (known as "kadogos"). It is estimated that around 10,000 children are in military service. The kadogo child Malumu, aged 13, was sentenced to death, after which his sentence was commuted to life imprisonment, in violation of article 37 (b) of the Convention on the Rights of the Child (annex V.A.).

M. Situation of women

105. There was no improvement with regard to the rights of women and the end of cultural discrimination, particularly in the area of education. The Special Rapporteur continued to receive complaints about women and

girls being raped in prison and, since the insurgency began, as a tactic of warfare (annex VI). Prisoner Viviane Bintou made a statement before the Military Court concerning the torture she had suffered at the hands of the National Information Agency (ANR) and the deplorable conditions in jail. Women with a Tutsi appearance have been harassed, arrested and plundered by soldiers.

106. During the ethnic conflict in Kivu, single women were considered by AFDL troops to be witches and cannibals; as a result, in Limangi they were beaten, tortured and killed. Five cases have been reported, including one whose family name is Kahindo.

VI. HUMAN RIGHTS SITUATION: VIOLATIONS ATTRIBUTABLE TO THE REBEL FORCES AND THEIR ALLIES

107. The most serious situation is in the occupied zone, especially in South Kivu. There is no form of participation (the Executive Committee of the Rassemblement Congolais pour la Démocratie (RCD) does not choose to establish a politically open regime for at least five years) and anyone suspected of putting up resistance to the rebellion (Congolese or Rwandan Hutu, journalists, young people, former Mobutu officials or simply supporters of the Kinshasa regime) is regarded as an enemy and is liable to reprisals.

A. Right to life

108. Many of the atrocities committed by the RCD forces against the right to life have been discussed in chapter III on violations of international humanitarian law, since it is very difficult to tell the difference between incidents which are linked to the armed conflict and those which are not. Other cases are indicated in annex XIII.A.

B. Right to physical and psychological integrity

109. The rebels have set up many clandestine prisons which are impossible to visit and were until recently closed off to access by ICRC. Many of them operate in the private homes of RCD executives and commanders and in containers and decommissioned aircraft. Some are genuine torture centres and many are extermination centres. The persons held in the centres are regularly tortured and the women are sexually abused. The best known places are the former Mobutu residence in Goma (RCD office) and the National Information Agency (ANR) office. ICRC was recently authorized to make visits (annex XIII.D.).

C. Right to equality and non-discrimination

110. In rebel territory, membership of the Tutsi ethnic group, which is in an absolute minority, guarantees privileges and immunities which have been firmly rejected by the local population, particularly when they have led to the removal and harassment of traditional chiefs.

D. Right to security of person

111. Fear and distrust prevail in the zone occupied by the rebels. The only recognizable authority is that of the members of the Rwandan and Ugandan armed forces and the Congolese who serve them out of fear. The historic anti-Rwandan feeling reported on by the Special Rapporteur since 1995 has become hatred. The soldiers, both those who are paid and those who are not, have turned to looting; they use stolen vehicles for troop transport or send them to be sold in Rwanda. In Kisangani, the Tufuate and Lisanga Protestant schools were turned into garrisons. These incidents are going on in the provinces of Kivu and in Kalemie, Goma, Fizi, Baraka, Uvira, Kindu, Moba, Kabalo, Myunzu, Mbuji-Maji, Moanda and Kasika.

112. Threats are official, such as those made by the Commander of Kadutu against the population because it protested against the President of RCD (25 August 1998) (annex XIII.C.).

E. Right to liberty of person

113. Large numbers of persons were arrested and accused informally, since trials are rarely held, of being

Mai-Mai, collaborators of the Mobutu regime or simply Hutu. Human rights advocates have also been affected (annex XIII.B.).

F. Right to a fair trial

114. An itinerant Conseil de Guerre Opérationnel has been set up and, like the Government Military Court, it tries ordinary and political offences, with no right of appeal. The court is composed of judges and prosecutors and also imposes the death penalty in irregular proceedings.

115. The commission which investigates seizures of property, with no guarantees for the accused or the victims, is contrary to due process. Impunity is the rule as far as violations of humanitarian law and human rights are concerned.

G. Right to freedom of expression and opinion

116. There is no form of exercise of this fundamental freedom in the rebel zone and it is possible to listen only to official radio broadcasts (annex XIII.E.).

H. Right to freedom of association

117. At the beginning of the conflict, NGOs were subjected to persecution, threats and looting and were accused of collaboration with the Mai-Mai and with Kinshasa. In Bukavu, their members were threatened by a former leader of civil society to make them join the Rassemblement Congolais pour la Démocratie (RCD). Although they were later tolerated, many leaders are in hiding, in exile or displaced (annex XIII.E.). Some are still carrying out projects with the authorities.

118. Neither political parties unconnected with RCD nor the opponents of the Kinshasa Government are allowed and internal dissidence is not accepted, as shown by the failure of its "renewal" faction, which favours dialogue and the "Congolization" of its policy.

I. Economic, social and cultural rights

Health

119. There was a cholera epidemic in Shabunda with a mortality rate of over 30 per cent. Many hospitals in occupied cities have been closed because of the shortage of equipment and staff.

Jobs

120. Government employees and Congolese soldiers are not receiving their wages and looting has therefore increased, but the Rwandans are being paid. Food purchases have been hard hit by the lack of wages. What has most aggravated the crisis, however, is that dairy plants have been shut down and military activity is causing supply problems.

Education

121. Universities and secondary schools have also been closed as a result of the conflict. Some parents decided not to send their sons to school, both in order not to pay school fees and because of the risk that they might be drafted.

J. Situation of children

122. The rebels have recruited 10-year-old children. In the Kapalata military camp, which houses 3,000 allegedly Mai-Mai children, many were eliminated before the conflict by the Rwandan soldiers in charge of them (they "disappeared" 900 in less than one month); this caused even more serious clashes between Congolese and Rwandans. Other children were executed by the rebels for not joining the rebellion.

K. Situation of women

123. In addition to sexual abuse and torture, a common method of humiliating women is to punish them for wearing trousers and other types of clothing. Other women have had to work as domestic servants in the homes of the rebel authorities.

VII. CONCLUSIONS

124. The Rapporteur has prepared his report in good conscience and to the best of his knowledge, aware of the strong interests that are opposed to public disclosure of the events described. This is, however, the task entrusted to him by the Commission on Human Rights, to which he is accountable.

125. Before the August 1998 rebellion, the AFDL Government had not put an end to internal rivalries. The ethnic conflicts continued and the victors imposed their will. Everyone was vanquished: the sectors with ties to the former regime, those which fought democratically against the Mobutu dictatorship, NGOs, journalists, human rights advocates and political leaders, all of whom are being humiliated, threatened, imprisoned and persecuted, as their former allies have also obviously been since the beginning of the conflict.

126. The rebellion has imposed a regime which the population perceives as a foreign occupation strongly dominated by one ethnic group and as disdain for the local people.

127. Both parties to the armed conflict have disregarded the rules of international humanitarian law, particularly the rebels, who display unusual cruelty which is reminiscent of the massacres committed during the so-called war of liberation against the Hutu refugees and which the Special Rapporteur, the joint mission of the Commission on Human Rights and the Secretary-General's Investigative Team were prevented from investigating. The most serious events were the Kasika and Makobola massacres, among many others, and the suspension of Kinshasa's water and electricity by the rebels, as well as the allies' bombings and the first calls for ethnic cleansing, which was, fortunately, suspended by the Government.

128. The main victims of the war on both sides are civilians, including children and even nursing babies. Hospital shortages have prevented many lives from being saved, especially during the brutal rationing of electricity and water by the rebels in Kinshasa.

129. The democratic process is not being paralysed by the war: it was already paralysed and the constitutional drafts that have been prepared are not satisfactory to the large majorities which are still represented in the National Sovereign Conference and are, of course, likely to be changed by another authentic national agreement. The powers of the President continue to be as absolute as described in the preceding reports. No progress has been made with regard to participation.

130. Before and during the conflict, AFDL, Kinshasa and RCD authorities committed very serious violations of the rights to life, physical and psychological integrity, liberty of person, freedom of association, due process and freedom of expression and opinion, inter alia. No efforts are being made to end cultural discrimination against women and there are no programmes to guarantee economic, social and cultural rights. The situation of human rights advocates is particularly serious.

131. The Government cannot go on ignoring the facts: independently of foreign support, the rebels exist. It always takes both sides to make peace and one cannot be left out.

132. Neither the Government nor the rebels recognize any crime and they are opposed to any independent and impartial investigation.

133. There are hopeful signs: (a) the establishment of the Ministry of Human Rights; (b) the recognition by this Ministry of abuses by "some elements in uniform" longing for Mobutu's regime, which has disappeared, and the announcement of human rights education programmes for these elements; (c) the announcement by the Minister on 10 December 1998 of the start of cooperation with the Special Rapporteur, who will thus be able to comply with the mandate of the Commission on Human Rights of evaluating technical assistance possibilities; (d) the announcement of the ratification of new human rights treaties and, in particular, Additional Protocol II to the Geneva Conventions; (e) the announced translation of the Universal Declaration into the official languages, Thiluba and Kikongo (it has already been translated into Swahili and Lingala); (f) the announcement by the

Minister of Justice that the prison system is to be reformed to make it a place for vocational training rather than a torture centre.

VIII. RECOMMENDATIONS

A. Recommendations to the Government of the Democratic Republic of the Congo

134. Peace and democracy are not the result of the authorities in power, but of consensus and debate. There can be no exclusions from the dialogue on either one, as was stated by 22 honorary members of parliament, the majority of political parties, the Cardinal and the bishops, clergymen, major Christian lay organizations and society as a whole. Room must also be made for the Congolese Tutsis, since not all of them are in favour of the war. Some even took refuge in Rwanda in 1996 and would like to return home.

135. The rebellion has to be dealt with on the basis of full respect for the rules governing internal armed conflicts.

136. Effective measures have to be taken to guarantee full respect for the human rights which appear, in the present report, to have been violated. The freedom of expression and rights of human rights advocates must be restored immediately.

137. The immediate cessation of the operation of the Military Court and the restoration of the right to a fair trial are of particular importance. The death penalty must be abolished and, in any event, no longer carried out.

138. The Government should comply with the request by the President of the Security Council that the massacres of the 1996-1997 war should be investigated and that a report should be submitted by 15 January.

139. An immediate end should be put to any incitement to ethnic hatred.

B. Recommendations to the rebel forces and their foreign allies

140. The rebel forces must comply stringently with the international rules applicable in internal conflicts, but, above all, they must accept an immediate ceasefire. In addition, they must put an end to the regime of terror that they have imposed throughout the occupied territory and respect the human rights and freedoms of the population they are governing de facto.

C. Recommendations to the international community

141. The Special Rapporteur fully endorses the recommendations of the Secretary-General's Investigative Team, as contained in document S/1998/581, particularly with regard to expansion of the jurisdiction of the International Criminal Tribunal for Rwanda or the establishment of another international criminal tribunal to include the acts referred to in that report and committed by any person, regardless of nationality, between 1 January 1994 and 31 December 1997. Witness protection measures should also be adopted. All of this is without prejudice to the investigations on which the Governments of Rwanda and the Democratic Republic of the Congo are to report to the Security Council by 15 January.

142. Moreover, all acts of brutality such as those at Kasika, Makobola and elsewhere, must be tried by an international court, regardless of who committed them.

143. Human rights advisory services must be established in the Democratic Republic of the Congo as soon as it is seen that serious, ongoing, sustained and effective efforts are being made by the Government to build a society based on respect for these rights.

144. An international meeting sponsored by the Organization of African Unity and the United Nations might help to bring about peace. For this purpose, however, an immediate end must be put to military assistance for the two sides and to the sale of weapons.

145. A multinational military force to separate the Democratic Republic of the Congo from its neighbours to the east might help to establish peace and, above all, protect the civilian population.

146. The international community must find refuge for persecuted persons and victims of the conflict in countries outside the region.

147. The representation of the Office of the United Nations High Commissioner for Human Rights must be expanded in order to ensure more efficient cooperation with the Special Rapporteur in the fulfilment of his mandate and to strengthen his cooperation with the Government for the promotion and protection of human rights.

Annex I

Congolese non-governmental and international organizations and Congolese political parties contacted by the Special Rapporteur

A. Congolese non-governmental organizations

Association des cadres pénitentiaires du Congo (ACPC); Association zaïroise de défense des droits de l'homme (AZADHO), since April 1998 known as the Association africaine de défense des droits de l'homme (ASADHO); Association Khyaganda; Association nationale pour la défense des droits des migrants et ceux de la femme (ANADDEM-F); Carrefour des initiatives pour l'auto-développement des communautés de base dans la région de Goma (CIAGO); Centre des droits de l'homme et du droit international humanitaire de Lubumbashi; Collectif d'action pour le développement des droits de l'homme (CADDHOM), South Kivu; Comité de solidarité Palermo-Bukavu; Comité des droits de l'homme maintenant; Commission Justice et Paix de Bukavu; Broederlijk Delen (Concertation Chrétienne pour l'Afrique Centrale); Groupe Amos; Héritiers de la Justice Haki Za Binadamu de Maniema; Groupe des Volontaires pour la Paix (GVP); Conseil national des organisations non-gouvernementales de développement (CNONGD); La Grande Vision; Fondation Espoir d'Afrique (FEDA); Institut Africain - CEDAF; Ligue des électeurs; Physicians for Human Rights; Médias libres, médias pour tous; World Organization against Torture; Toges Noires; Solidarité pour la promotion et la paix (SOPROP); Sima-Kivu; Voix des sans voix pour les droits de l'homme.

B. International non-governmental organizations

International Law Group for Human Rights; International Federation of Human Rights Leagues (IFHR); Human Rights Watch/Africa; Amnesty International; Centre d'information, de recherche et de solidarité avec le Congo (COSI); Lawyers without Borders; Médecins du monde; Doctors without Borders; Union des associations spécialisées en matière électorale; La voix de l'enfant; International Crisis Group, National Centrum Voor Orktwiklelengs; Entraide et Fraternité.

C. Political parties

Union pour la démocratie et le progrès social (UDPS); Parti démocrate et social chrétien (PDSC); Mouvement national congolais/Lumumba (MNC/L); Alliance pour le développement et la concorde (ADECO); Forces du futur.

Annex II

International instruments to which the Democratic Republic of the Congo is a party

International Covenant on Economic, Social and Cultural Rights

International Covenant on Civil and Political Rights

International Convention on the Elimination of All Forms of Racial Discrimination

International Convention on the Suppression and Punishment of the Crime of Apartheid

Convention on the Prevention and Punishment of the Crime of Genocide

Convention on the Rights of the Child

Convention on the Elimination of All Forms of Discrimination against Women

Convention on the Political Rights of Women

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

Convention relating to the Status of Refugees and Protocol relating to the Status of Refugees

Geneva Conventions of 1949

Annex III*

Cases of violations of the right to life attributed to the Government and its allies resulting from the armed conflict and governed by international humanitarian law

August 1998

No specific dates

Kinshasa: 14 Tutsi-looking persons were killed and thrown into the Congo and Ndjili rivers.

Kinshasa, Masima: 12 persons were burned alive (several were "necklaced").

Marechal: 14 Tutsi-looking persons were killed.

Kinshasa: 10 mentally retarded persons, including those known as Ebi-Dilu, Django, Mwana ya President and Wayo Ndoba, were shot and burned alive on the grounds that they were rebels.

Kalémie: before the town fell, young people stirred up by FAC soldiers burned alive several members of the former FAZ accused of intelligence with the rebels. Other persons accused of collusion with the Banyamulenge were "necklaced".

Lubumbashi: 2 former FAZ were killed in similar circumstances.

Bandalungwa: murder of a mentally retarded person accused of intelligence with the rebels.

Kinshasa: murder of Commander Metaki, suspected of collusion with the rebellion.

3 August: in Kinshasa: murder of Mr. Komando, on the grounds that he supported the rebellion.

5 August: in Kisangani: murder of Protais Ndayitwaeko, a student of Burundian origin, accused of supporting the rebellion.

7 August: in Isangi (Eastern Province): murder of two rebels who were in custody.

20 August: in Kole (Eastern Province): murder of a school director and his son. In Kalémie and Kisangani, murder of some 75 Banyamulenge.

* Whenever a date is given without a year, 1998 is meant.

27 August: in Kinshasa, Bandalungwa commune: a certain Jean-Marie, who was mentally retarded, was shot and

then burned alive on the grounds of intelligence with the rebellion.

27 August: in Kinshasa, in front of the Limete town hall: Gaston Basosila, who was mentally retarded, was shot and then burned alive on the grounds that he was a rebel in disguise.

28 August: in Kinshasa: several persons arrested during a FAC raid were then murdered, while others managed to escape.

30 August: in Kinshasa: Paul Liaki, a guard, was shot down in the commune of Ngiri-Ngiri by soldiers who accused him of being a rebel.

30 August: in Kinshasa/Kimbanseke: murder of Mrs. Kabata and her daughter before the city was bombed by the rebellion.

Annex IV*

Cases of violations of the right to life attributed to the rebels and their allies resulting from the armed conflict and governed by international humanitarian law

In August (no specific date): not far from Matadi (western part of the country), murder of 30 persons by the rebels as they retreated; mines that they allegedly planted caused the death of a child named Michel Tuyindula.

6 August: in Kisangani, murder of Crispin Mbomro Mujani, an official.

6 August: in Sake, murder of three young persons who had refused to join the rebellion.

6 August: in Rukobero, murder by Banyamulenge of six persons, including a Catholic deacon.

7 August: in Kigoma, murder by Banyamulenge of six persons, including a woman and a child.

10 August: in Bukavu, murder of Thierry Bagalwa.

12 August: in Kavumu, execution of 44 FAC soldiers.

15 August: in Lemera, murder of four Pentecostal Church ministers.

17 August: in Ksanga, murder of a clergyman. In Kilungutwe, massacre of 127 unarmed civilians.

19 August: in Duga, execution by a Rwandan soldier of a resident who refused to give him a lift.

20 August: in Fizi, murder of 47 persons.

20 August: in Makobola, murder of 16 young persons.

24 August: in Kasika, murder of 648 civilians, including four clergymen. Several rebel soldiers who took part in this massacre were later executed on the grounds that they had deserted.

27 August: in Kaziba, massacres of 300 persons by Burundian soldiers. In Mboko, massacre of 344 persons.

* Whenever a date is given without a year, 1998 is meant.

In September (no precise date):

In Mwenga, 11 defenceless civilians, including the Mwami's wife, were killed by Tutsi soldiers who later set fire to the neighbourhood.

In Goma, execution of a Congo Airlines pilot who refused to transport rebel elements.

In Kikongo, murder of the chief of the community of Bavira and that of Kuningo.

2 September: in Kitutu, murder of 13 persons.

3 September: in Kabare, 53 civilians were killed by rebels. A few days later, 150 persons accused of being Mai-Mai were executed.

4 and 5 September: in Moba, murder of about 40 persons.

7 September: kidnapping of Panda wa Makulu of the SOCODEVI non-governmental organization in Kazima and of Reverend Bautista Rugamika Erhahomoba.

3 November: in Bukavu, discovery of 12 corpses. The dead bodies of 15 other persons who had been kidnapped in Rubuga (Uvira) were found.

Annex V*

Cases of violations of the right to life transmitted to the Government

A. Death penalty

6 January: in Bukavu, execution of two members of the armed forces and one civilian.

7 January: execution of a young man accused of collaborating with the Mai-Mai.

Execution of two members of the armed forces, Jean Claude Muriri and Muhanzi Shombo.

In Goma, execution of nine persons found guilty of armed robbery.

In Bukavu, execution of 12 persons, including Matabaro, Ngonza, Musema Gatabazi, Mungonderwa and Kalele Muhoza, as well as two members of the armed forces who were opponents of the regime.

3 March: in Lubumbashi (Wangu military camp), public execution of 16 persons (14 soldiers and 2 civilians).

28 March: in Kinshasa, Malumu, a 13-year-old boy found guilty of killing a local Red Cross employee during a soccer match was sentenced to death; following intense international pressure, the Government commuted his sentence.

15 May: in Goma, execution of six members of the armed forces found guilty of armed robbery.

5 to 23 June: in Kinshasa, death sentences for armed robbery and ordinary murder of Kyangwe Lwimbo, Badibanga Kalonde, Ruaga Hungu, Lemba Erick, Tshibuabua Mukubayi, Bahati Birembano, Thisola Pierre, Bofanda Jean, Kenga Ngoy, Kyungu wa Mbuyu, Zamba Wali, Amisi Masimangu, Dianambo Mushakamba, Yiukilayi and Kabasele Tshiondo.

22 July: in Kinshasa, eight persons were sentenced to death, one in absentia, for belonging to a sect allegedly associated with King Misele Nsemi Lubadika, who advocates the secession of the regions of Kinshasa, Bas-Congo and Bandundu.

Mid-October: in Kinshasa, execution of 38 FAC members found guilty by the Military Court of desertion or running away from the enemy.

14 and 15 November: in Lubumbashi, execution of 13 FAC soldiers found guilty of desertion.

* Whenever a date is given without a year, 1998 is meant.

B. Arbitrary deprivation of life by members of the armed forces who are abusing the impunity they enjoy

9 February: in Kimbanseke, Willy Tshunza and his fiancée Christine (a Nigerian).

13 February: in Bandalungwa, Danny.

13 May: Cardinal Frédéric Etsou's niece.

17 May: in Bukavu, the PIR shot and killed a certain Wenceslao Tabaro.

7 June: in Kinshasa, execution of a certain Floribert Kamaragi, member of a religious order, in the parish house. Some time later, a certain Tshibwabwa Kapinga was also killed.

10 June: in Kinshasa, murder of Mr. Sindanien.

21 July: murder of Jacques Thierry, a Belgian national, by a member of the Presidential Guard.

22 July: in Masina, murder of Musema Be, 16 years old.

July: in Kananga, Eastern Kasai Province, murder of Anna Desrumeaux, a Belgian nun by members of the armed forces carrying weapons of war. The murder occurred after the nun had been called in several times by a judge and by the police in connection with the Tantamana school. Five members of the armed forces were sentenced to five years' imprisonment, while the other perpetrators were acquitted.

19 August: in Lubumbashi, murder of Mr. Bukoko by a member of the armed forces at Vambu Camp for unknown reasons.

26 August: murder of Suzanne Itambo Seka by members of the armed forces after they had looted her house.

5 September: in Lubumbashi, murder of Benjamin Llunga, on the grounds that he had not paid a debt he owed to a member of the armed forces.

8 September: in Kinshasa, murder of Victor Malembo Mabuse, accused of colliding with a military vehicle. In Kinshasa as well, Musole Djogoni was killed by members of the armed forces guarding the Okapi Hotel.

29 September: in Kinshasa, murder of 13-year-old Kanza Muanda by a group of seven members of the armed forces who broke into his parent's home and were trying to steal the family's belongings.

1 November: in Kinshasa, murder of Marie-Jeanne Ngoya N'Zya by a member of the armed forces when she refused his advances.

6 November: in Kinshasa, murder of Eric Ngelebe, a money changer, by a group of six men, two of whom were wearing military uniforms. On the same day in Kinshasa, murder of Emery Muyembe and a taxi-bus driver by FAC elements.

C. Excessive use of force by members of the police, the security forces and the army

18 to 19 August: at the Kinshasa Prison and Rehabilitation Centre, shooting of 15 prisoners, a guard, 2 members of the armed forces and 3 passers-by, who were killed when the FAC 50th Brigade intervened following an attempted escape.

22 September: in Kinshasa, a soldier who was drunk was shot by members of the Groupe Spécial de la Sécurité Présidentielle.

1 November: in Kinshasa, 3 persons were shot to death and 25 others were injured when the police broke up an incident at Martyrs Stadium.

D. Deaths in detention as a result of torture or cruel, inhuman or degrading treatment or punishment

2 September: in Kinshasa, Benjamin Nzamba died at the Provincial Police Station (the former CIRCO (military district) building) as a result of ill-treatment during questioning.

E. Enforced disappearances

28 August: in Kinshasa, disappearance of Mr. Cyprien Kasongo Ossenge, a lawyer accused of intelligence with the enemy.

3 September: in Kinshasa, disappearance of Mr. Belmonde Magloire Coffi Missinhoun, a lawyer from Benin and owner of the newspaper le Point Congo.

10 September: in Kindu, disappearance of Asumani Mikiûngu, provincial AFDL President.

28 September: in Kinshasa, disappearance of Reverend Guillaume Mpadi Kimbombo.

Annex VI*

Cases of violations of physical integrity

Ill-treatment of General Kapepa and the Simba Brigade officers called Kanyinda, Ngongo, Omari, Assani, Sabiti, Mavinga and Mul Ange, who had been detained since December 1997 by the Groupe Spécial de la Sécurité Présidentielle.

14 January: ill-treatment of Ngalama, a member of the armed forces accused of having helped Mokassa Libeba to escape.

2 February: in Makidi, 200 families were expelled from their homes by members of the armed forces who seized their legally acquired belongings, near the police training centre in Matadi, in the town of Mont Ngafula. Several girls were raped. These members of the armed forces acted on the orders of "Commander John".

20 February: in Kinshasa, a certain Katende was tortured by a provincial police commander.

10 February: in Ngaliema, Joseph Albert Mena Menga, former counsellor of the Republic, who was detained by the Presidential Protection Unit at Ngaliema, was struck with a club 70 times.

12 March: rape and ill-treatment of two of the daughters of Mr. Makuna, a lawyer and leader of the Union for Democracy and Social Progress (UDPS).

In May: ill-treatment of Mr. Olengankoy and Mr. Arthur Z'Aidi Ngoma during their detention in Likasi (Katanga Province).

In May: in Bagata, Bwatisa Rufin, accused of witchcraft, was handled roughly by the National Information Agency (ANR).

23 May: In Yatoko (Eastern Province), members of the Rapid Intervention Police (PIR) ill-treated Masambuko, Kayembe and Bendro for stealing food and animals.

25 May: ill-treatment of the diplomat Philippe Biyoya during his detention.

In June: the leaders of Kolo-Kidezo were struck 41 times by ANR members for requesting a change of mayor.

10 June: Zokita Lewa, Mulongo Nzege, Masele Mongengo and Manze, all members of the former Zairian Armed Forces, were tortured by members of the armed forces acting on the orders of Commander Ipoko of Ndolo airbase.

* Whenever a date is given without a year, 1998 is meant.

7 July: in Kinshasa, four members of the Kimbanguiste Church were tortured.

In July: in Kinshasa, 20 persons, including Nzolameso, Nganda Baramoto, Fukwa and Honoré, who were

detained in Ngaliema by the Presidential Protection Unit in a flooded room without access to sanitation, were subjected to serious torture.

15 July: Chief Zobolo from the village of South Tsundi (Bas-Congo Province) and members of his family were tortured by FAC soldiers after he denounced the crimes they had committed.

Second week of August: in Kinshasa, attack on the wife and servant of Dr. Robert Bavi, accused of being a Rwandan.

20 August: in Kinshasa, physical attack in the street on Odette Bolanga, accused by the members of the armed forces of dressing indecently.

1 October: in Kinshasa, ill-treatment of eight employees of the Kinshasa CREE company accused of belonging to a UDPS working group, during detention in the Litho Moboti Group (GLM) building (see also annex VIII).

12 October: in Kinshasa, attack on Dino Chermani, adviser to the Minister of Mines, by 12 members of the Groupe Spécial de la Sécurité Présidentielle; he had to be hospitalized.

5 November: in Lubumbashi, ill-treatment of 13 members of the delegation of administrative and technical staff of the University of Lubumbashi during their imprisonment. One of the women prisoners had a miscarriage because of the ill-treatment.

22 December: in Kinshasa, Freddy Loseke Lisumbu-La Yayenga, editor of the newspaper La Libre Afrique, was whipped 150 times by members of the armed forces acting on the orders of S2 GSSO Commander-in-Chief Etienne Kabundi.

Annex VII*

Cases of violations of the right to security of person committed by members of the armed forces

30 January: in Matonge, looting of the home of Omar Ntumba Shabangi, a former Deputy Minister, and theft of his automobile.

1 February: in Kinshasa, kidnapping of Patrick Bemba, a member of the departmental staff of the Minister for Foreign Affairs, and looting of his home.

2 February: in Kinshasa, kidnapping of Jean Jacques Kandeke, leader of a non-governmental organization, and his wife, and looting of their home.

2 February: Marc Olivier Tshibelu, a diplomat, was attacked and his vehicle was stolen.

2 February: looting of the land of Kumuini, a resident of Kalamu.

19 February: theft of property belonging to Modeste Mutinga.

23 May: in Yatoko, Eastern Province, theft of food and animals belonging to villagers by members of PIR.

10 May: Mr. John of the Joint United Nations Programme on HIV/AIDS was wounded and robbed.

8 August: in Kinshasa, on the pretext of looking for Rwandans, a dozen uniformed men in a Toyota Hilux patrol vehicle belonging to the Congolese Armed Forces (FAC) attacked and looted the La Trinité medical centre belonging to Dr. Bavi, who is of Rwandan origin.

24 and 25 August: in Kinshasa, members of the armed forces acting with the complicity of the population destroyed and looted all the property in the residences of Mr. Lunda Bululu and Mr. Kengo wa Dondo, who are both former Prime Ministers and are now said to be among the leaders of the rebellion.

31 August: in Kinshasa, the home of the Kayonsa Mobeya Romain family was invaded by four members of the

armed forces carrying firearms and bayonets. They took $240 and NZ 21 million. Before leaving, they beat up the young people who were in the house.

4 September: in Kindu (Maniema Province), Mr. Jean Louis Ngoie, who was in charge of the MMC depot, was arrested and had all his money stolen by FAC members on the grounds that he represented Tutsi interests.

* Whenever a date is given without a year, 1998 is meant.

5 September: in Pangi territory (Maniema Province), soldiers from the Congolese Armed Forces advancing towards Shabunda, in complicity with the population of the surrounding villages, looted and then set fire to Lutala village, the village of origin of Professor Arthur Z'Ahidi Ngoma, the main leader of the Rassemblement Congolais pour la Démocratie (RCD).

15 September: in Kinshasa, six armed members of the armed forces driving in a car with licence plate No. KN 0117C burst into La Grâce currency exchange office, where they pulled guns on one of the money changers and got away with $630 and NZ 40 million.

16 September: in Kinshasa, three members of the armed forces wearing Military Police armbands and a police officer in a green Kombi stole $819 from the money changers named Thierry Ankama and Francky.

17 September: in Kinshasa, a group of six armed men, two of whom were wearing military uniforms, stole $300 from the home of Mr. Nzuzi.

18 September: for the second time, armed men, one in military uniform, stole $510 from the owner of La Grâce currency exchange office.

On the same day, in Kinshasa as well, armed men, one wearing the uniform of the Groupe Spécial de la Sécurité Présidentielle, stole FC 185 from a money changer named Achille Tula.

30 September: in Kinshasa, on the pretext of breaking up an argument between a money changer and his customer, a group of armed PIR members extorted FC 300 (about $125) from Kote Matuaba, a money changer.

Annex VIII*

Cases of violations of the right to liberty of person

4 December 1997: in Kinshasa, Mossi Mwasi, a journalist, was imprisoned for four months.

November 1997: arrest of Arthur Z'Ahidi Ngoma, who was transferred to Lubumbashi before being placed on probation by the Military Court.

Date unspecified: arrest of Ngoy wa Ngoy.

December 1997: arrest and detention of General Kapepa and Officers Kanyinda, Ngongo, Omari, Assani, Sabiti, Mavinga, and Mulele Ange (Simba Brigade) by the Group Spécial de la Sécurité Présidentielle. They were tortured.

12 December: arrest of Freddy Libeba, who was released on 28 April and arrested again on 3 May "for his own protection".

Arrest and detention of Joseph Baudelaire Otenga, official of the Mouvement National Congolais/Lumumba and member of the Conseil National de la Résistance pour la Démocratie, by Rwandan soldiers. He is accused of cooperating with the Mai-Mai and, according to Commander Joseph Kabila, of complicity with former Mobutu government officials.

13 January: in Kinshasa, arrest and detention of Perry Magloire Kamuy, Julien Samba, Simon Mayinga and Evariste Kadima, officials of the Société Culture et Élevages du Congo (CELCO), by members of the Ngaliema Rapid Intervention Police (PIR).

14 January: arrest, detention and ill-treatment of the soldier Ngalama, accused of having helped Mokassa Libeba to escape.

17 January: arrest and detention of six Syndicat Solidarité trade union leaders accused of having incited a public disturbance.

17 January: in Kinshasa, arrest, detention and beating with an electric truncheon of Bayila Bantu Panzo, Omanda Betukudianga, Mangole, Ndongala, and Miss Monsongo, an official of the Union for Democracy and Social Progress (UDPS), by the PIR, who accused them of having visited Etienne Tshisekedi.

19 January: arrest and detention of Steve Mbikayi, Secretary-General, and Diumu and Henri Kiliba, officials, for having disturbed the peace during Office National des Transports trade union elections.

* Whenever a date is given without a year, 1998 is meant.

20 January: arrest of Joseph Olengankoy, Chairman of Forces Novatrices pour l'Union et la Solidarité (FONUS), who was transferred to Lubumbashi and Likasi before being sentenced to 15 years' imprisonment by the Military Court.

27 January: arrest and detention of Athanase Oyumbu and Paul Kasongo, FONUS officials, who were released on 29 January, but arrested again on 30 January before being transferred to Eastern Kasai.

27 January: arrest and detention of Catherine Nzuzi wa Mbombo Tshianga, senior Mouvement Populaire de la Révolution official.

January: arrest and detention by FAC of Ike Moke, Chief of Ngambu Sinangba village, Ngbokoli Eddy Pascal, Ngwadu Zangayo, Silo Albert, Kady Mboligie, Kifula Gwadu, Masikini and Ngbakoli.

February: house arrest of Patrick Claes, a Belgian arrested on 18 August 1997.

February: arrest and detention in Likasi of 12 former FAZ and 5 Rwandan refugees.

4 February: in Kinshasa, arrest and detention of 33 UDPS activists and youth members.

7 February: in Kinshasa, arrest and detention of Mbanzulu Péé Bikandu, FONUS activist.

7 February: arrest and detention of Albert Bonsange Yema, journalist, and three members of his family, by the Rapid Intervention Police (PIR) for having called for the release of Olengankoy. He was sentenced to one year's imprisonment by the Military Court.

12 February: in Kinshasa, unlawful detention in the home of Etienne Tshisekedi wa Malumba of Jean Marie Thimanga, Bozi Léonard, Katumbayi Alexandre, Kafungi Pierre Eugène Mubeya, Samuel Mawege, Célestin Bilenga and Jerry Dikala, all UDPS officials. Etienne Tshisekedi was subsequently transferred to Kabeya Kamwanga, the village of his birth in Eastern Kasai.

5 March: arrest and detention of Antoine Aboulouka Bolinda by members of the armed forces.

13 March: arrest and detention of Reverend Mbala Ntumba, a UDPS official, and Alidi, Batupanzi, Nyimi and Bolanda, UDPS activists.

14 April: imprisonment at ANR of Charles Tshimanga, Secretary-General of the Union Socialiste Congolaise, and of Mbelu Shambuyi, a party activist.

18 April: arrest and detention of André Ipakala, journalist and editor of La Référence Plus; he was later released.

In Kinshasa, arrest and detention of former FAZ members Yossa Malasi, Makulo Johnny, Lisonge Levian, Dango Roger, Ngayoumou Rufin and Wawina Paul, for association with Mobutu.

20 April: arrest and detention of Kasabu and Tshilumba, UDPS officials.

21 April: arrest and detention of Nindaga, father of Commander Masasu, his colleague, Kamwanya Bora, his

uncle Mikobi and a Lebenese friend.

Arrest and detention of Michel Luya, journalist with the newspaper Le Palmarès, for having published a statement by Etienne Tshisekedi.

Arrest and detention of Papy Sombo Yuma (ANR), Lucien Senga Ngoye (ANR), Miss Marie Kaj (National Police) and Mutamba Lessa Théo (RTNC) for having sent a letter to President Kabila.

May: in Kinshasa, arrest and detention of 60 Congolese refugees from Congo-Brazzaville, including Bonaventure Boukaka Oudiabantu, accused of membership in Bernard Kolela's private militia.

4 May: arrest of Fabrice Michalon, a French national employed by Médecins du Monde, accused of espionage and held for two months without trial before being expelled from the country.

21 May: arrest and detention of Antonio María Sucolate, Alphonse Massanga, Albert Nduli and Emmanuel Nzita, officials of Cabindan organizations.

21 May: arrest and detention of Thierry Kyalumba Kabonga, journalist and director of Vision, for publishing inappropriate news and a letter from the former minister, Kamanda wa Kamanda, Kidimbu Mpese, and Awazi Kharomon of the newspaper Le Soft, called Le Soft International in Belgium.

Arrest and detention of Mosese Onses, former FAZ colonel, by the Groupe Spécial de la Sécurité Présidentielle.

25 June: arrest and detention of Chrispin Ipondo, Richard Kapata, Jules Mokwi, Steve Ilunga, Tshijos Muzumi and Annie Mushiya, young UDPS activists; they were released on 29 June.

14 July: arrest and detention of Christophe Lutundula Apala, a member of Parliament during Mobutu's time, for statements made to Radio Catholique Elikya.

In July: arrest and detention by ANR of Mukendi wa Mulumba, Marcel Mbayo, Firmin Kama, Amédée Kirarahumu, Nyembo Yalumbu, Bieme Ngalisame, Ezulua Monzemba, Modeste Kikunga, Shabani Miteko, Mbeli, Yaone, Honorine Nabunyi and Malato Mukendi, UDPS officials; at least two of them were tortured.

5 August: arrest and detention of Reverend Patrice Fumumba, accused of looking like a Tutsi.

5 August: arrest and detention at Kokolo camp of Roger Nyamugabo, Ghislain Malera and Didier Rukeratabo.

7 August: arrest and detention of Ide Bakomo Ekuna Fiste at Makala I station and of a certain Nepa Kahenga Stanis at Binza Pigeon base.

10 August: in Kinshasa, arrest and detention in solitary confinement in the Provincial Police Station (the former CIRCO) and then at Kokolo camp of Odette Nyirahuku. Arrest of Mrs. Mubali Patience, held in solitary confinement at the former CIRCO for four days.

28 August: arrest and detention, at the Airborne Troop Centre (CETA) camp, of Mukuntu Kiyana, President of the Military Court, Mayumbu Kuyungana Ursoel, Chairman of the Auxdet Foundation, and his assistant, Wivine Diur.

8 September: arrest and detention at the former CIRCO of Semi Dieyi, Max Cesar Lokate, Ekofo Isawoso, Prontom Binois, Désire Kanyama and Martin Mazembe, journalists at the Congolese National Radio and Television Corporation (RTNC). They were released on 11 September and arrested again on 27 September and held at DEMIAP before finally being released on 25 September.

9 September: arrest and detention for 14 days at General Baramoto's residence of Kokassa J'Ifaso, Botwa, Ebeya Mata, Joseph Illeko and Mrs. Egbake, National Electricity Company officials.

11 September: arrest and detention at Ndjili airport of the Belgian director of Sabena Airlines and the station chief. They were released 24 hours later.

14 September: arrest and detention at the former CIRCO of 16 trade unionists of the Congolese Foreign Trade Bank.

16 September: arrest and detention in solitary confinement at ANR/3Z of Fuka Unzola, Governor of Bas-Congo Province.

1 October: arrest and detention at the Litho-Moboti Group (GLM) building of Jean-Pierre Lwabeya, owner of the Kinshasa CREE company, and of seven of his colleagues (Kabamba Kapiamba Nicaise, J.-P. Ngoy Mulogo, Marius Tshivuadi Mbaya, Ndjangi Ngongo Kalunda, Kongolo, Yodi Félix and Miss Ntenda (by members of the Rapid Intervention Police (PIR)). After two days of detention, they were transferred to the ANR. They were released on 5, 6 and 7 October and Jean-Pierre Lwabeya was released on 9 November.

3 October: arrest and detention at the GLM building of Lieutenant Colonel Ngama, an air force pilot accused of collusion with the rebellion.

12 October: arrest and detention at the GLM building of Kiza Ingani, Roger Dzaringa and Mutombo, accused of intelligence with the enemy.

19 October: arrest and detention at the GLM building of Ferdinand Tala Ngaï, Minister of Finance.

23 October: in Mbandaka (Equateur Province), arrest of Imponga Joseph (editor of the newspaper Ekanga), Iyanza Botshindo (Bureau Chief), Moyanda Pierre, Nkana Roger, Lokofo Benjamin, Nkana Roger, Baoso Clément, Boonga Gilbert, Bonku Lucien, Imponga Célestin and Efolote Jean-Théodore. These 11 persons were accused of having organized a reception committee for the rebel commander Ondekane, who is from this province. They were taken to Kinshasa on 26 October and held in the jail in the Kin-Mazière building before being transferred to the DEMIAP jail.

5 November: in Lubumbashi, arrest and detention in the ANR jail of 13 members of the delegation of administrative and technical staff of the University of Lubumbashi.

14 November: in Mbandaka (Equateur Province), arrest and detention at the GLM building of several senior FAC officers accused of collusion with the rebellion.

20 November: arrest and imprisonment at Kokolo camp of Michel Museme Diawe, journalist with the Congolese National Radio and Television Corporation (RTNC).

21 November: arrest and detention at the GLM building of Doudou Bonga-Bonga, half-brother of Dieudonné Kabengele, who allegedly joined the rebellion.

7 December: arrest and detention at the former CIRCO and then at the Kinshasa Prison and Rehabilitation Centre (CPRK) of 31 fishermen on the grounds that they were helping some "suspects" cross over to Brazzaville. The fishermen answered to the names of: Ikolonga Mobito, Tcha-Tcahmbe Kiongozi, Mosukula Kataminda, Kiditcho Batamba, Walombola Bokonode, Ofeka Boloko, Mabengo Modonga, Ngolomba Longanga, Maseke Mbouela, Moy Mongogo, Bobilo Bokombo, Mokuya Mange, Abaye Lobota, Mubato Bazana, Bahita Tolo, Lombele Bokoko, Nkoy Olongo, Losembe Kigoma, Ndumbo Kwaku, Dokalise Bifo, Mole Lifeto, Saidi Bolongola, Lopakata Telly, Ama Jér_me, Mongio Lingisi, Bateko Jean, Mwanga Adrien, Malukizi Antoine, Lobota Lompela, Alifi Dada and Baofa Lifoli.

15 December: arrest at the home of Antoine Gizenga, President of the Unified Lubumbist Party (PALU), of 28 activists who were on duty as guards for the President of the Party at the time. They were: Punana Sylvain, Nkata Hubert, Nsoni Anicet, Kumanda Gibert, Ntama Lambert, Mwata Médard, Kangufu, Dondo, Mesopamba Frédéric, Kambundi Kosasa, Mitaku Mudingangu, Makangila Zabuyongo, Santu Kinguzi, Matungulu Célestin, Dila Jonas, Metelo, Mukaya Cadet, Mukala Dieudonné, Mbalaka, Mukyongo Fingila Timothée, Kibwa, Makwata David, Masangu Mafwa, Musoko, Kapita Arthur, Pelete Delphin, Kanbeya Anasthase, Lukuru Anicet. These persons were taken to Kokolo camp and then released on 16 September.

19 December: arrest and detention at the former CIRCO of Yvette Idi Lupantsha, a journalist, and Risasi Risonga, a cameraman, at the RTNC, who were accused of having tried to copy cassettes of President Kabila's latest press conference for the press service of the United States Embassy in Kinshasa. The two journalists were released on the evening of 22 December.

Annex IX

Cases of violations of the right to freedom of movement

31 May 1998: Joseph Sita Nsonizeno, an official of the Union for Democracy and Social Progress (UDPS), was arrested and detained on arrival in the country for having left without government authorization.

No specific date: Balanda Mikuin Leliel, former Chief Justice of the Supreme Court, former Chairman of the Ad Hoc Working Group of Experts on Southern Africa and member of the United Nations Administrative Tribunal, had his freedom of movement restricted.

24 October 1998: Etienne Tshisekedi, UDPS President, was prevented from leaving the country to accept an invitation from the European Parliament. He was to submit his peace plan for a comprehensive and lasting settlement of the war to the members of the European Parliament.

Annex X*

Cases of persons tried by the Military Court

A. Political crimes not covered by the Decree-Law on the jurisdiction of the Court

Justin Nindaga and Alphonse Kaseba were sentenced to 20 years of forced labour and fined for having called for the release of Commander Masasu.

Kalehe Ka-Bila and Jean François Kabanda, UDPS members, were sentenced to two years' imprisonment for "false rumours" (lawyers from the non-governmental organizations Toges Noires and Avocats sans Frontières refused to defend them in protest against irregularities and flagrant procedural defects).

Théodore Ngoy, a Pentecostal minister, was convicted of subversive preaching in Kinshasa.

Appearance on 5 August of Ghislain Malera, a jurist, and Didier Rukeratabo, a computer technician.

Sentencing of Albert Bonsange Yema, a journalist, to one year's imprisonment for calling for the release of Olengankoy, President of Forces Novatrices pour l'Union et la Solidarité (FONUS), arrested on 20 January 1998.

2 December: Fuka Unzola, Governor of Bas-Congo, and Mr. Masibu, Director of the Province, were sentenced to 15 and 10 years, respectively, of penal servitude by the Military Court, which found them guilty of treason and misappropriation of public property.

B. Convictions of civilians for ordinary offences

24 November: the Military Court asked for the death penalty against Tshikombo Mandjika, Ngoie wa Mulango, Beya Mulumba, Mikobi Bope and Kasongo Dibwe, who were found guilty of treason, murder and conspiracy, respectively.

21 December: the Military Court hearing criminal cases in Kinshasa asked for the death penalty against Nkeza Jean, Azumbia Alone and Jean-Denis, who were on trial in the case of the murder of Mr. Mario Landu Malila, Chief Executive Officer of the Malila Airlift company.

* Whenever a date is given without a year, 1998 is meant.

Annex XI*

Cases of violations of the right to freedom of expression and opinion

30 December 1997: in Kikwit, Father Evariste Pini-Pini, Director of Radio Tomisa, was detained for 12 hours for

criticizing the military.

7 January: the newspaper Le Moniteur de l'Economie was robbed by soldiers (Kinshasa).

7 February: arrest and detention of the journalist Albert Bonsange Yema and three members of his family (see annexes VIII and X).

18 February: Frédéric Kitenge Kikumba and Michel Museme Diawe, journalists with the Congolese National Radio and Television Corporation, were suspended for failure to comply with high-level directives on the handling of information.

25 February: Modeste Mutinga Mutuishayi, editor and publisher of the newspaper Le Potentiel, was detained for five days after refusing to reveal his sources of information.

March: confiscation at Ndjili International Airport of copies of the international edition of the newspaper Le Soft because it contained an article on the situation in the east of the country.

18 April: the Minister of the Interior banned Radio Amani (radio of the Kisangani Catholic Church) for alleged involvement in politics.

21 August: Faustin Nyathe, first Vice-President of UDPS, Ndjili section, was arrested and threatened for having given his colleagues an explanation of why it was necessary to negotiate with the rebels to establish a lasting peace.

9 September: arrest and detention of seven journalists from the Voix du Peuple and the Radio Officielle du Congo on the grounds that they were in collusion with the rebellion. They were released on 11 September, but arrested again on 17 September before being released on 25 September.

23 September: Raymond Luala, editor-in-chief of the newspaper Umoja, was arrested and interrogated about the contents of his article entitled "Bukavu was not bombed".

24 September: Mr. Omari Lea Sisi, a lawyer and member of the Executive Committee of the Mouvement Populaire de la Révolution (MPR), was arrested and imprisoned in the ANR Office for having stated his party's position on the war engulfing the Democratic Republic of the Congo.

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24 September: expulsion of the French journalist, Ghislaine Dupont, from Radio France Internationale.

16 October: Paulin Tusumba Nkazi a Kanda, editor of the newspaper Le Peuple, was arrested and detained at the Law Courts following the publication of an article entitled "The 29 Banyamulenge and Mobutu supporters who are financing the rebellion".

19 October: Jean-Marie Kanku, journalist and administrative and financial director of the newspaper L'Alerte, and Professor Clovis Muamba Kayembe, an external collaborator of the newspaper, were arrested and questioned about an allegedly defamatory article against Gaétan Kakudji.

21 October: Clovis Mwamba Kayembe, a journalist from L'Alarme, was arrested and imprisoned at CPRK following the publication of an article on the departure of the Minister of Internal Affairs for Brussels.

23 October: Célestin Beye Mukoko, editor of the weekly La Destinée in Kananga, was arrested and detained for having published an allegedly defamatory article against the Governor of Kasai Province.

From 2 to 7 November: arrest and detention of three journalists from Le Soft and two from La Flamme du Congo for publishing allegedly defamatory articles against members of the Government.

19 November: Franck Baku and Kitungano Milenge, journalists from the daily La Référence Plus, were interrogated about an article on the dismissal of 315 judges.

Late November: Mbakulu Pambu Diambu, president of the local section of the Congo Press Union and journalist with the private RTM channel, was arrested and detained for hosting a television programme in which

representatives of the rebellion took part.

During the night of 14 to 15 December: arrest and detention of 28 PALU activists, including President Antoine Gizenga. They were released on 16 December.

19 December: arrest and detention of Yvette Idi Lupantsha and Risasi Risonga, journalists with RTNC accused of having copied cassettes of the press conference given by President Kabila for the benefit of the United States Embassy.

19 December: arrest and imprisonment of Joseph-Freddy Kimbeni, member of the "Parlement Debout" of the Union for Democracy and Social Progress (UDPS), for having publicly criticized President Kabila during a discussion with activists of the United Lumumbist Party (PALU). He was flogged when he arrived at Kikolo camp.

21 December: in Kinshasa, arrest and detention at the Provincial Police Station (the former CIRCO) of Kusukula, head of the PALU section, for having held political meetings.

23 December: Kabeya Pindi Pasi, director of the weekly Numérica, was arrested on the basis of a complaint for libel filed by Michel Ladi Luya, president of CASCROM, a journalists' organization, and director of Palmarès. Mr. Kabeya was accused of having used his newspaper to denounce CASCROM's poor management of a $1 million donation made by President Laurent Désiré Kabila for the Congolese press.

Annex XII*

Cases of violations of the right to freedom of association and assembly committed by the Government

A. Human rights organizations

18 February: in South Kivu Province, AFDL members in search of Mai-Mai robbed the offices of many NGOs; 24 persons were arrested and detained.

Samba Jean-Pierre, Chairman of La Grande Vision, was threatened for having maintained in a lecture that the right to a nationality is contingent on internal law, thereby angering Rwandans.

27 April: arrest and detention by ANR of Reverend Paul Nsapu and Sabin Banza, Ligue des Electeurs officials. These two human rights activists were accused of espionage as they were leaving the Belgian Embassy. They were released on 10 August without having been tried.

30 April: arrest and detention of Brigitte Mutambala Mapendo of the European Group of Public Administration.

8 May: Suliman Baldo of Human Rights Watch was held for 24 hours and then expelled.

Harassment by ANR of Mr. Kapend and Mr. Mwamba, lawyers and representatives of the Human Rights and Humanitarian Law Committee (CDH) in Katanga Province.

Arrest and detention of Mayumbu Kuyungana Ursoël and Wine Diur, members of the Fondation Auxiliaire pour la Défense des Droits de l'Homme, accused of espionage on behalf of the rebellion. Released after 16 days of detention. Because of threats to his safety, the former was forced to go into hiding.

1 October: in Kinshasa, arrest, detention and ill-treatment of Jean-Pierre Luabeya N'Kobong Mufua Mualuka, head of the Comité pour le Développement Communautaire (CODECO), and seven of his colleagues. While the colleagues were released six days after their imprisonment, he was released after 40 days of detention and his property was confiscated.

B. Political parties

13 March: in Kinshasa, looting of the headquarters of the Union for Democracy and Social Progress (UDPS) by about 100 members of the Rapid Intervention Police (PIR). The home of Adrien Phongo, Secretary-General of the organization, was also robbed, while the UDPS headquarters was requisitioned and converted into a police polyclinic.

* Whenever a date is given without a year, 1998 is meant.

The home of the FONUS official, Kwet Muan Kwet John, was robbed and party posters were stolen.

13 October: arrest and detention in ANR premises of Pascal Saïdi, a UDPS member accused of political activities.

Night of 14 to 15 December: raid on the national headquarters of the Unified Lumumbist Party (PALU) and seizure of party documents.

Annex XIII*

Some cases of alleged human rights violations committed by the rebels and their allies in the Provinces of North and South Kivu

A. Violations of the right to life (not included in the cases governed by international humanitarian law; see annex IV)

1. Summary and arbitrary executions

4 August: in the commune of Karisimbi, a young photographer was shot by members of the armed forces after asking to be paid for the photographs he had taken.

8 August: in Lemera, murder of Jacques Semurongo, member of the organization Héritiers de la Justice by members of the Rassemblement Congolais pour la Démocratie (RCD). He was accused of transmitting information abroad on the situation of human rights in the areas controlled by the rebels.

12 August: in the commune of Goma, murder of 18-year-old Faida Bijou by three Ugandan soldiers after she refused their advances.

29 August: in the commune of Karisimbi, Martine Muhawe was shot by soldiers, who took all her valuables with them when they left.

1 September: in Sake, a certain Mbonimpa was shot by RCD members. This execution took place not far from the Rutoboko military position where the victim was headed in order to meet the commander to discuss the shopkeepers' safety.

2 October: the body of a motorcycle-taxi driver identified as that of 18-year-old Maisha Ndula was found not far from the Notre Dame d'Afrique Catholic mission; he had been shot by RCD members.

29 October: a young taxi driver was killed by soldiers from Rwanda. This act and the theft of the motorcycle led to a demonstration during which two civilians and two rebels died when attempts were made to end it.

29 October: a motorcycle-taxi driver known as Rasta Muyi (family name, Masumbuko Sekimomyo) was killed not far from the Foccolari Catholic Centre by Rwandan soldiers who then stole his new motorcycle. His eyes were gouged out before he was shot.

11 November: Ntambara Isidore, aged 38 years, manager of a plantation belonging to Mr. Gishati, a Tutsi living in Rwanda, was killed by four soldiers who accused him of poor management.

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17 December: in Mabanga, murder of a certain Alimassi by Rwandan soldiers.

17 December: in Bulenga, murder of a certain Mayani Muhanya by Rwandan soldiers.

13 August: in the commune of Karisimbi, a 16-year-old was shot after refusing to join the rebellion.

24 October: in Byahi, murder of nine Tutsis by a group of unidentified armed individuals.

2. Disappearances and abductions

13 August: in Goma, in the commune of Karisimbi, a certain Muburukla Jean-Marie was abducted from his home by members of the armed forces who accused him of being a former FAR soldier.

The men and boys from a group of 120 persons who had taken refuge in the Caritas Offices in the diocese of Goma after the rebellion began and who came from the border area of Kibumba were separated from the 76 women and small children during the night and taken to an unknown destination, while the women and children were taken to a hangar in front of the Diocese Development Office.

10 September: in Monigi, Bukumu village, a 22-year-old mason named Ndereya was abducted by RCD members.

14 September: in Goma, 28-year-old Mr. Mberebukiye, a Kumue father of two children, was abducted from his home by soldiers speaking Kinyarwanda.

18 September: in Sake, abduction of Déo Muhanya Delvis from his home by soldiers who pulled up in a Nissan Patrol and a Land Cruiser.

18 September: in Goma, abduction of Lukogho Karutsi, Mushumo and Mbuleki Mianitise of the Hunde ethnic group. On the same day, abduction in the commune of Karisimbi of Ngandu and Kiza Baudoin.

3 October: in Goma (Ngangi II), Mr. Matoke and his wife were stopped by soldiers and taken to a unknown destination. On the same day, two women tenants of Mr. Matoke and three small children were also abducted.

16 October: on the Bulenga peninsula (North Kivu), soldiers from Minova in search of Rwandan Hutu refugees ordered the chiefs of those places to count the Rwandans. At least 69 of them who were identified have been missing since then.

12 persons arrested as a result of the 14 September attack and held in the former ANR (Bureau II) jail are now reported missing.

3 December: in Bukavu, abduction by RCD soldiers of Augustin Babunga (teaching assistant at the African Evangelical University), Jumapili Ruhekenya (teaching assistant at the Advanced Teaching Institute), François Maheshi (member of Group Jérémie) and five Protestant clergymen, who were accused of supporting the Mai-Mai and belonging to l'Union des Forces Vives pour la Libération et la Démocratie.

6 December: Pascal Mungazi, Songa Ngomu, Mastaki Baleze, Muhima Muhisa and Kayumba Bisimwa were abducted while they were performing Salongo community service.

B. Cases of violations of personal liberty

12 August: in Sake, arrest of 10 Hutu and Hunde young people suspected of intelligence with the Mai-Mai and the Interahamwe. They were transferred to the Kinyote jail, where they were ill-treated. Ngirimana, Chimbe, Kalayaga, Kitoto, Samuel, Habimana Bahati Ndarukwabo, Sangila, Bahati Changamuka and Janvier Bahati had to be hospitalized.

14 September: in Gima, in the commune of Karisimbi, arrest of Jeanne Kacha, a Shi nurse known as Mama Maombi, accused of taking care of Mai-Mai. She was held in the police jail before being transferred to Bureau II. She was released three weeks later as a result of action by the Bishop of the Goma diocese.

15 September: in Goma, in the commune of Karisimbi, arrest of Habimana Semajonge and Nzabonimpa, accused

of being Interahamwe. They were detained in a container at the airport.

15 September: arrest in the commune of Goma of Bosco Ngwire, a bartender, by a RCD soldier acting on the orders of a Rwandan commander. He was accused of being a Mai-Mai and taken to the Congolese-Rwandan border before being released.

Arrest and detention of Mgr. Gapangwa by members of the Burundi armed forces, who accused him of having signed a petition.

16 September: in the commune of Karisimbi, Kisuba, a shopkeeper and four members of his family were arrested and imprisoned in a container at Goma airport. They were released two days later after being tortured.

22 November: in Munigi, 10 persons were arrested by RCD soldiers while they were at mass; they were released after the church intervened.

In Goma, 21 persons (13 members of the armed forces and 8 civilians) were detained for several weeks in the Bureau II jail which formerly belonged to ANR.

4 December: arrest of François Kahombo, district administrative secretary, who is in Nyamitaba prison.

Early December: in Bukavu, Babunga Augustin (teaching assistant at Bukavu Evangelical University), Chubaka (tax department official), Bugugu (businessman) and Mrs. Muke were arrested by RCD soldiers and later taken to Cyangugu in Rwanda.

C. Cases of violations of personal security

2 August: in Kabati, seizure by 109th Battalion soldiers of a vehicle belonging to a certain Mitamo. The vehicle was returned to him the following day.

11 August: in the commune of Karisimbi, soldiers stole dollars and several valuable objects from the home of Kasholo Kulu.

12 August: in the commune of Goma, the ESCO Congo offices were robbed by soldiers based in the town.

18 August: in the commune of Karisimbi, the town pharmacy was robbed by RCD soldiers who took $500 and pharmaceuticals.

27 August: in Goma, in the commune of Karisimbi, a local official of a humanitarian organization was robbed by soldiers of NZ 500,000 and several belongings.

27 August: in Bukavu, a group of about 20 soldiers broke into the archdiocese offices and looted property and stole about $100,000.

30 August: in the commune of Karisimbi, uniformed men attacked the home of the family of Martin Muhawe and stole NZ 500,000 and several electrical appliances.

18 September: following the attack on Goma by armed groups, members of the armed forces of the Democratic Republic of the Congo attacked several families living in Sake (Kilibwa Mugoma, Komomore Anatole, Kalibwa Gahindi David, Jér_me Muulwa, Musungane Jean-Pierre, Simweray Dieu-Aimé, Bwira Muharuro, Kjumba Germain, Chibalonza Rezi and Miss Mumphano Fatu) and looted their homes.

19 September: in the commune of Karisimbi, Malira Maman Clarisse had $400 and other belongings stolen by soldiers acting on the orders of a certain Simon. She was then raped before being arrested.

21 September: in the commune of Karisimbi, theft of belongings of Jean-Bapiste Bengehya and a certain Kalembeko.

2 October: theft of several head of cattle from Mrs. Kyirabakara by soldiers speaking Kinyarwanda. On the same day, theft of money from Simeon Bitahwa Kapfumba. The two victims were accused of complicity with the Mai-Mai.

1 November: in Goma, in the commune of Karisimbi, a soldier stole NZ 700,000,000 from the home of a certain Katswa.

On the same day, a woman named Mupika was forced at gunpoint to turn over $100 to RCD soldiers.

18 November: in the commune of Goma, soldiers stole five pieces of material belonging to a woman named Sibatu Lolira.

D. Cases of violations of physical integrity

4 August: in Moanda (Bas-Congo), rape of 12 young girls in their place of detention.

5 August: a student, Willy Mudwengo, was forced during detention to drink his own urine. Because of the ill-treatment he received, he may lose one of his legs. His brother, who had come to find out how he was, was also ill-treated.

7 August: in Boma, rape of several women by RCD soldiers.

10 August: in Bukavu, Pascal Nyamulinduka had an arm and a leg broken after being ill-treated by RCD soldiers.

10 August: in Bukavu, a student Michel Bazhizi, was flogged 100 times at the time of his arrest.

Mwami (Chief) Ntambûka on the Island of Idjwi was ill-treated.

19 August: in Uvira, Jules Nteba, a member of the Elimu Association was subjected to ill-treatment.

20 August: in Kalundu (South Kivu Province), rape of Mrs. Roda by RCD soldiers.

22 August: in Uvira, Mr. Bwaja was subjected to ill-treatment.

In Bukavu, Reverend Rugamika and his daughters, Luka, Willy and Ndume Ngama, were subjected to ill-treatment by RCD soldiers.

1 September: in Bukavu, 57 girls were raped by RCD rebels.

Rape and detention of Jeanine Couchage for five days by rebel soldiers who were searching for her husband.

18 September: in Goma, beating by RCD soldiers of Paluku René, in charge of security of the People's Self-Defence Committee on Kabingwa Avenue; his arm was broken.

19 September: rape of Malira Maman Clarisse in the commune of Karisimbi.

22 September: in Ibanda, rape of several young women by RCD soldiers.

23 September: in Mabanga district of the commune of Karisimbi, several members of Mr. Mupenba's family were roughed up because they were accused of being accomplices of the Mai-Mai and the Interahamwe.

4 October: Mr. Kiwele Olivier Paluku and his wife were knifed by soldiers. Mr. Kiwele was admitted to Goma hospital and died of his wounds.

23 October: in Majengo, in the commune of Karisimbi, the 17-year-old daughter of Mr. Rukomera was killed after refusing the advances of a soldier known as Bebe. The soldier also opened fire on the victim's mother and on a woman named Justine Ntira; these two women were admitted in critical condition to Goma hospital.

11 November: in Goma, rape of Mrs. Chibi Chabene by four soldiers.

13 November: in Goma, rape of Miss Zahabu Kasembe by several soldiers. The victim, who was to get married, took her own life.

20 November: in Kitshanga, rape of the wife of Reverend Karufandi by 20 soldiers.

Rape of six residents of the village of Kitshanga by soldiers stationed on Mubugu hill, including the wife of Mongera Joseph and a woman named Yalala Majumu.

Repeated sexual abuse by soldiers of 76 women and children who had taken refuge in a hangar in front of the Diocese Development Office.

E. Cases of violations of the rights to freedom of expression, freedom of association and freedom of assembly

8 August: arrest of Jean-Bosco Bahati, member of Héritiers de la Justice organization.

Joseph Kyalangilwa and Professor Chirawila, President and Vice-President of the Société Civile of South Kivu, respectively, were persecuted for their activities in connection with the association; the former was forced to go into hiding.

Mbilizi Mulonda received threats from RCD authorities following statements he made on Radio Mandeleo.

Persecution of Edoaurd Wasso, a student at the Advanced Rural Development Institute.

Jean-Paul Bingheya, Raphaël Wakenge, Reverend Bugiriri and Jean Bosco, members of the Héritiers de la Justice association, were threatened in September and publicly accused of treason. In view of the threats to their security, these activists were forced to take refuge in a neighbouring country.

Honorate Mwanzi, a member of the Bukavu Musinwa women's association, was threatened and forced to go into exile.

Didier Mwati, member of the Collectif d'actions pour le développement des droits de l'homme (CADDHOM), and Partiel Musunwa, President of the Regional NGO Council for Development (CRONGG/Bukavu), were forced into exile following threats by RCD authorities.

30 November: arrest and detention in Bukavu of Mr. Maheshe, a member of Groupe Jérémie.

Threats were also made against the members of the following associations and groups: GEAPO, Groupe Jérémie, CADDHOM, CRONGD, CAFI, FUB-Uvira, CODA/South Kivu, COJESKI, Filader, SOCODEFI in Fizi, ADEPAD and Groupe Lotus in Kisangani.